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DEPARTMENT OF THE PRIME MINISTER AND CABINET

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ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF

THE NUGAN HAND GROUP

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1.24	A Berendsen 14.6.84										
	T. Playford	26.11.84									
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	Vasarelli	PW 15/3.									
	Berendsen										
	O'Dea										
	Stanhope										
	P.A. 16/9	MR	29/10								
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NOMINAL ENTRIES

Royal Commission of Inquiry into Drug Trafficking
Nugan Hand Inquiry

DEPARTMENT OF THE PRIME MINISTER AND CABINET

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CHRIS MEANEY
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The Treasury,
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TELEPHONE 63 9111

REFERENCE NO.

F83/631

Chairman
Officials Committee on
Law Enforcement
Department of the Prime Minister
and Cabinet
West Block
CANBERRA ACT 2600

STEWART ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN HAND GROUP: REPORT OF THE WORKING GROUP OF OFFICIALS ESTABLISHED TO REVIEW CRITERIA FOR THE ISSUING OF BANKERS' OPINIONS

At its meeting on 25 July 1985 the Officials Committee on Law Enforcement agreed to the establishment of an informal working group of officials comprising representatives from Treasury, the Reserve Bank and Attorney-General's Department to consider recommendation 11.8 of the abovementioned Royal Commission namely, to review possible criteria for the issuing of bankers' opinions in Australia. I now enclose six copies of the working group's report on this matter for consideration by the Committee.

The report has been prepared against the background of consultations between the Reserve Bank and the Australian Bankers' Association and information collated by Treasury and Attorney-General's Department on the current legal standing of, and practice with, issuing bankers' opinions in Australia and other countries. Its recommendations have been agreed to by all members of the working group.

Richard M. Beetham

R.M. Beetham
First Assistant Secretary
28 July 1986

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REPORT OF THE WORKING GROUP OF OFFICIALS ESTABLISHED TO REVIEW CRITERIA FOR THE ISSUING OF BANKERS' OPINIONS

24 July 1986

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(f) Consideration of the Issues	11, 12
(g) Options	13, 14, 15, 16, 17, 18, 19
(h) Recommendations	20

ATTACHMENT

Summary information on legal position, and current practice, in issuing bankers' opinions in United Kingdom, United States and Japan

REPORT OF THE WORKING GROUP OF OFFICIALS ESTABLISHED TO REVIEW CRITERIA FOR THE ISSUING OF BANKERS' OPINIONS

INTRODUCTION

In its Final Report, the Royal Commission of Inquiry into the Activities of the Nugan Hand Group (Stewart Commission) made a number of policy recommendations including Recommendation 11.8, namely:

> 'That a committee be set up to liaise with appropriate professional bodies, such as the Australian Bankers' Association, with a view to establishing criteria to be followed by banks in respect of the issuing of opinions concerning their clients' financial standing and worth which they have reason to suspect will be relied upon in that regard by those requesting such opinions or those to whom such opinions are to be, or are likely to be, directed.'

2. At its meeting on 25 July 1985, the Officials' Committee on Law Enforcement decided to establish an informal working group of officials from Treasury, the Reserve Bank and Attorney-General's Department to consider this recommendation - a decision subsequently endorsed in the Special Minister of State's statement to Parliament on the Report on

27 November 1985. The report has been prepared against the background of consultations between the Reserve Bank and the Australian Bankers' Association (ABA) and information collated by Treasury and Attorney-General's Department on the current legal standing of, and practice with, issuing bankers' opinions in Australia and other countries.

DEFINITION

3. As the term implies, bankers' opinions are essentially references or opinions provided by banks, to other banks, on the financial standing and worth of their clients. Such opinions are normally expressed in general terms and are based on a knowledgeable assessment of the client's financial standing and history.

BACKGROUND TO MR JUSTICE STEWART'S RECOMMENDATION

4. The concerns that led the Stewart Commission to focus on bankers' opinions arose from the apparent ability of the Nugan Hand Group to influence the issue of favourable opinions on its financial standing and the subsequent very effective use made of those opinions in expanding the Group's activities, particularly in South-east Asia.

5. Of particular concern to the Stewart Commission was its finding that, through a process of negotiation between the principals of the Nugan Hand Group and the branch manager of the bank with whom it dealt, the Group was able to inject into the bank's 'opinion', selected balance sheet information that had essentially been contrived to give an impression of a strongly expanding asset base. At the same time, the Stewart Commission found that the Nugan Hand Group was also able to achieve, through a series of suggested drafting amendments, the omission of other essential information, such as profit performance, and to have incorporated information on the activities of its overseas affiliates which did not deal directly with the Group's Australian bank and on which that bank was not therefore in a position to make any assessment.

CURRENT PRACTICE IN ISSUING BANKERS' OPINIONS IN AUSTRALIA

6. The ABA has advised that while there is no formal code within the banking industry under which opinions are sought and given, similar standards and conventions are observed by all banks. In essence, the opinion process in Australia amounts to an exchange of information on an inter-bank basis, opinions being sought by banks on behalf of customers. Banks do not respond to requests for opinions concerning their customers from third parties.

7. Information disclosed in response to requests for opinions is provided on a confidential basis and a 'without responsibility' disclaimer. Nevertheless, because of the important principles involved, opinions are authorised only by senior bank staff.

8. As indicated earlier, opinions are based on information that is available to the bank directly by way of its dealings with the customer and, where appropriate, publicly available factual information. They are expressed in general terms and, reflecting a bank's obligation to secrecy in its dealings with clients, specific details such as account balances, borrowing arrangements and security held are not divulged.

CURRENT LEGAL POSITION IN ISSUING OPINIONS IN AUSTRALIA

9. Bankers' opinions come within the scope of Division 1 of Part V (the consumer protection provisions) of the Trade Practices Act 1974 and in particular sub-section 52(1) which prohibits, on a civil basis, a corporation in trade or commerce, engaging in conduct that is misleading or deceptive or is likely to mislead or deceive. The general remedy for a

contravention of section 52 of the Act is damages under section 82. However, if the opinion contravenes one of the specific prohibitions contained in section 53 (false or misleading representations) or section 55A (certain misleading conduct in relation to services) the bank may be liable to prosecution and be subject to a fine not exceeding $100,000.

10. At common law, notwithstanding the fact that bankers' opinions are issued with a disclaimer of responsibility, there is a considerable body of case law dealing with the provision of information and advice and it is well established that bankers are under a duty of care to ensure that information provided in opinions is factual and given without negligence. While there would appear to be numerous precedents in case law, two major Australian cases, in particular, have resulted in judgements being given against banks for being negligent in failing to exercise reasonable care and skill in giving an opinion or because the opinion was false or fraudulent, or given recklessly without regard to the truth.

CONSIDERATION OF THE ISSUES

11. In considering the concerns raised by the Stewart Commission, the Working Group first acknowledges the Commission's observation that the circumstances whereby a managing director of an alleged merchant bank was, in effect, able to prepare his own bank reference were extraordinary, particularly given the clear, well established legal obligation on bankers to exercise a duty of care in issuing opinions on their clients and the fact that it is not normal practice for banks to negotiate on the content of their opinions.

12. The Working Group also considers it is particularly relevant that obtaining favourable opinions on their activities was but one part in a chain of deception and fraud perpetrated by the principals of the Nugan Hand Group. As noted by the Commission, the first step in this chain was the preparation of a set of accounts which misrepresented the true financial position of Nugan Hand Ltd (particularly in conveying a false impression of a rapidly expanding asset base). The second step was to obtain the cooperation of the Nugan Hand Group's auditors in certifying these accounts. It was largely on the basis of those certified (but false) accounts that favourable opinions on Nugan Hand Ltd's activities were able to be elicited from the branch of the bank with whom it dealt.

OPTIONS

13. In considering a possible Government response to the Stewart Commission's recommendation there would appear to be essentially two options:

a) Accept the thrust of the Commission's recommendation and seek to establish, either by legislation or voluntary cooperation, a set of guidelines to be followed by banks in issuing opinions on their clients; or

b) continue to rely on the provisions of Division 1 of Part V of the Trade Practices Act 1974 and the common law 'duty of care' doctrine which already provide appropriate legal sanctions against false and misleading representations and negligence, respectively, in the issue of opinions by banks on their clients.

14. Option (a) has a possible advantage in that it could provide for some standardisation of the nature and detail of information included in bankers' opinions and, in particular, could go some way to meeting the specific concern of the Commission that only selective (ie favourable) balance sheet

information was included in opinions on Nugan Hand Ltd issued by its bank while other more important information, such as the Group's profitability, was excluded. That concern notwithstanding, the fact remains that the abovementioned first two links in the chain of fraud and deception perpetrated by the Nugan Hand Group were crucial to favourable opinions being obtained. Since those two links were clearly beyond the purview of information that could reasonably be expected to be subject to verification by any bank, it is doubtful whether any prescribed guidelines would have significantly altered the nature of the bank's opinion in this instance.

15. As indicated earlier, the essential basis for issuing opinions is the bank's knowledge of the manner in which the client has conducted its accounts and the client's reliability in meeting its commitments to the bank. From the information available, it would seem that the Nugan Hand Group carefully orchestrated its dealings with the branch of the bank with whom it dealt to ensure an impression of reliability and soundness on both counts.

16. More generally, the detail of information included in bankers' opinions is essentially dictated by the nature of the enquiry itself. As the details included in an opinion will vary depending on what is relevant to the enquiry, a set of strict guidelines would seem impractical. Moreover, the ABA has advised that the vast majority of opinions are given orally and that form is preferred.

17. Against that background, the Working Group concludes that implementation of formal guidelines to be followed by banks in issuing opinions is neither practicable nor necessary in meeting the concerns of the Stewart Commission. The Trade Practices Act and the common law 'duty of care' doctrine provide substantial legal sanctions in the event that opinions are given which are false or misleading, or prepared negligently. Furthermore, the Working Group notes that the Commission's other recommendations directed to the first two links in the chain of events mentioned above, particularly Recommendation 11.7 concerning the scope and duty of auditors would, if effectively met, go a long way to ensuring that the circumstances giving rise to its concerns regarding bankers' opinions do not reoccur.

18. The Working Group also notes that the issuing of bankers' opinions is not a matter that appears to be subject to any governmental direction in other countries. A summary of practices in issuing bankers' opinions and their legal standing in the UK, US and Japan is Attached.

19. The Working Group recognises, however, that there were several shortcomings identified by the Commission with aspects of the opinions issued on Nugan Hand Ltd that should have been readily apparent to the bank concerned since it would seem from the evidence available that they went beyond the bank's own criteria and guidelines. The Working Group considers therefore that these shortcomings identified by the Commission should be brought formally to the attention of banks with a view to seeking their assurances of greater vigilance in avoiding future problems.

RECOMMENDATIONS

20. The Working Group considers that the implementation of formal guidelines to be adhered to by banks in the issuing of opinions on the financial standing of their clients is

neither necessary nor practicable in addressing the concerns raised by the Stewart Royal Commission. It nevertheless recommends that the concerns of the Commission be formally brought to the attention of individual banks by the Reserve Bank with a view to seeking their assurances of greater vigilance and avoiding the shortcomings identified in future.

The Treasury
Attorney-General's Department
Reserve Bank of Australia

ATTACHMENT

PRACTICES IN SOME OTHER COUNTRIES

(i) UNITED KINGDOM

Legal Standing

There is no British statute law which relates directly to bankers' opinions, and no recent case law. Banks in the UK distinguish themselves from credit reference agencies (which are subject to the provisions of the Consumer Credit Act) in that the latter obtain information about other parties in order to provide it to third parties.

Current Practice

2. The practice followed in issuing bankers' opinions in the UK is, as might be expected, essentially the same as that in Australia. In essence, the clearing banks issue standing instructions to their branch managers about preparing bankers' opinions. These instructions indicate whose requests for opinions are to be responded to, and how to respond. Under these instructions, bankers' opinions are normally issued by a branch manager on the same day as the request is received, and on the basis of the information he has to hand about the running of the client's account and his knowledge of the client's business.

(ii) UNITED STATES

Legal Standing

3. There is no legislation specifically relating to the issue of bankers' opinions and neither the US Treasury nor the Federal Reserve Board play any role in the oversighting of the practice. The involvement of the authorities in the use of opinions appears solely related to opinions/references between governmental instrumentalities.

Current Practice

4. It is difficult to assess the role of bankers' opinions in the United States given the vast number and variety of financial institutions. Major banking houses do provide references for valued clients but these are tempered by the knowledge that legal recourse may be taken for any damages resulting from a misleading reference. In essence, the issue of bankers' opinions/references appears to be solely a matter for individual institutions to determine and there may not even be any informal guidelines governing their use.

(iii) JAPAN

Legal Standing

5. There are no specific laws or regulations (for instance, in the Banking Law), governing either, in the first instance, the terms in which bankers' opinions are given or secondly the nature of the legal liability that might subsequently arise. Any damages or compensation that might be sought would be a matter of contract law.

Current Practice

6. It would appear that the issuing of bankers' opinions is not a practice extensively followed in Japan. In fact, general policy seems to be for banks to withhold information from their competitors about the financial standing of their customers, especially information pertaining to a customer's overall position. This policy has been adopted to protect their established clientele and business, an attitude that has been reinforced in recent years because of the declining demand for banking loans as a result of financial

deregulation in Japan and a growing trend for companies to fund themselves directly from the market. On the very rare occasions that a bank would write a recommendation about one of its clients to a third party, this would be dictated by extremely unusual circumstances and where it was judged absolutely necessary in order to secure joint funding of a particular activity.

7. There are, however, circumstances in which information exchanges occur informally between banks. Although confirmed in writing, the exchange is essentially conducted by telephone and is governed by certain conventions which the banks accept as having no legal force. These are that the bank giving the information accepts no responsibilities, that the receiving bank undertakes to observe the confidentiality of the information and that the requested bank is not obliged to furnish all the information sought.

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REFERENCE NO.

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24 July 1986

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CONSIDERATION OF THE ISSUES

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OPTIONS

13. In considering a possible Government response to the Stewart Commission's recommendation there would appear to be essentially two options:

a) Accept the thrust of the Commission's recommendation and seek to establish, either by legislation or voluntary cooperation, a set of guidelines to be followed by banks in issuing opinions on their clients; or

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(ii) UNITED STATES

Legal Standing

3. There is no legislation specifically relating to the issue of bankers' opinions and neither the US Treasury nor the Federal Reserve Board play any role in the oversighting of the practice. The involvement of the authorities in the use of opinions appears solely related to opinions/references between governmental instrumentalities.

Current Practice

4. It is difficult to assess the role of bankers' opinions in the United States given the vast number and variety of financial institutions. Major banking houses do provide references for valued clients but these are tempered by the knowledge that legal recourse may be taken for any damages resulting from a misleading reference. In essence, the issue of bankers' opinions/references appears to be solely a matter for individual institutions to determine and there may not even be any informal guidelines governing their use.

(iii) JAPAN

Legal Standing

5. There are no specific laws or regulations (for instance, in the Banking Law), governing either, in the first instance, the terms in which bankers' opinions are given or secondly the nature of the legal liability that might subsequently arise. Any damages or compensation that might be sought would be a matter of contract law.

Current Practice

6. It would appear that the issuing of bankers' opinions is not a practice extensively followed in Japan. In fact, general policy seems to be for banks to withhold information from their competitors about the financial standing of their customers, especially information pertaining to a customer's overall position. This policy has been adopted to protect their established clientele and business, an attitude that has been reinforced in recent years because of the declining demand for banking loans as a result of financial

deregulation in Japan and a growing trend for companies to fund themselves directly from the market. On the very rare occasions that a bank would write a recommendation about one of its clients to a third party, this would be dictated by extremely unusual circumstances and where it was judged absolutely necessary in order to secure joint funding of a particular activity.

7. There are, however, circumstances in which information exchanges occur informally between banks. Although confirmed in writing, the exchange is essentially conducted by telephone and is governed by certain conventions which the banks accept as having no legal force. These are that the bank giving the information accepts no responsibilities, that the receiving bank undertakes to observe the confidentiality of the information and that the requested bank is not obliged to furnish all the information sought.

CONFIDENTIAL

The Treasury,
Canberra, A.C.T. 2600
TELEPHONE 63 9111

REFERENCE NO.

F83/631

Chairman
Officials Committee on
Law Enforcement
Department of the Prime Minister
and Cabinet
West Block
CANBERRA ACT 2600

STEWART ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN HAND GROUP: REPORT OF THE WORKING GROUP OF OFFICIALS ESTABLISHED TO REVIEW CRITERIA FOR THE ISSUING OF BANKERS' OPINIONS

At its meeting on 25 July 1985 the Officials Committee on Law Enforcement agreed to the establishment of an informal working group of officials comprising representatives from Treasury, the Reserve Bank and Attorney-General's Department to consider recommendation 11.8 of the abovementioned Royal Commission namely, to review possible criteria for the issuing of bankers' opinions in Australia. I now enclose six copies of the working group's report on this matter for consideration by the Committee.

The report has been prepared against the background of consultations between the Reserve Bank and the Australian Bankers' Association and information collated by Treasury and Attorney-General's Department on the current legal standing of, and practice with, issuing bankers' opinions in Australia and other countries. Its recommendations have been agreed to by all members of the working group.

Richard L. Beetham

R.M. Beetham
First Assistant Secretary
28 July 1986

CONFIDENTIAL

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REPORT OF THE WORKING GROUP OF OFFICIALS ESTABLISHED TO REVIEW CRITERIA FOR THE ISSUING OF BANKERS' OPINIONS

24 July 1986

CONFIDENTIAL

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ATTACHMENT

Summary information on legal position, and current practice, in issuing bankers' opinions in United Kingdom, United States and Japan

CONFIDENTIAL

REPORT OF THE WORKING GROUP OF OFFICIALS ESTABLISHED TO REVIEW CRITERIA FOR THE ISSUING OF BANKERS' OPINIONS

INTRODUCTION

In its Final Report, the Royal Commission of Inquiry into the Activities of the Nugan Hand Group (Stewart Commission) made a number of policy recommendations including Recommendation 11.8, namely:

> 'That a committee be set up to liaise with appropriate professional bodies, such as the Australian Bankers' Association, with a view to establishing criteria to be followed by banks in respect of the issuing of opinions concerning their clients' financial standing and worth which they have reason to suspect will be relied upon in that regard by those requesting such opinions or those to whom such opinions are to be, or are likely to be, directed.'

2. At its meeting on 25 July 1985, the Officials' Committee on Law Enforcement decided to establish an informal working group of officials from Treasury, the Reserve Bank and Attorney-General's Department to consider this recommendation - a decision subsequently endorsed in the Special Minister of State's statement to Parliament on the Report on

27 November 1985. The report has been prepared against the background of consultations between the Reserve Bank and the Australian Bankers' Association (ABA) and information collated by Treasury and Attorney-General's Department on the current legal standing of, and practice with, issuing bankers' opinions in Australia and other countries.

DEFINITION

3. As the term implies, bankers' opinions are essentially references or opinions provided by banks, to other banks, on the financial standing and worth of their clients. Such opinions are normally expressed in general terms and are based on a knowledgeable assessment of the client's financial standing and history.

BACKGROUND TO MR JUSTICE STEWART'S RECOMMENDATION

4. The concerns that led the Stewart Commission to focus on bankers' opinions arose from the apparent ability of the Nugan Hand Group to influence the issue of favourable opinions on its financial standing and the subsequent very effective use made of those opinions in expanding the Group's activities, particularly in South-east Asia.

5. Of particular concern to the Stewart Commission was its finding that, through a process of negotiation between the principals of the Nugan Hand Group and the branch manager of the bank with whom it dealt, the Group was able to inject into the bank's 'opinion', selected balance sheet information that had essentially been contrived to give an impression of a strongly expanding asset base. At the same time, the Stewart Commission found that the Nugan Hand Group was also able to achieve, through a series of suggested drafting amendments, the omission of other essential information, such as profit performance, and to have incorporated information on the activities of its overseas affiliates which did not deal directly with the Group's Australian bank and on which that bank was not therefore in a position to make any assessment.

CURRENT PRACTICE IN ISSUING BANKERS' OPINIONS IN AUSTRALIA

6. The ABA has advised that while there is no formal code within the banking industry under which opinions are sought and given, similar standards and conventions are observed by all banks. In essence, the opinion process in Australia amounts to an exchange of information on an inter-bank basis, opinions being sought by banks on behalf of customers. Banks do not respond to requests for opinions concerning their customers from third parties.

7. Information disclosed in response to requests for opinions is provided on a confidential basis and a 'without responsibility' disclaimer. Nevertheless, because of the important principles involved, opinions are authorised only by senior bank staff.

8. As indicated earlier, opinions are based on information that is available to the bank directly by way of its dealings with the customer and, where appropriate, publicly available factual information. They are expressed in general terms and, reflecting a bank's obligation to secrecy in its dealings with clients, specific details such as account balances, borrowing arrangements and security held are not divulged.

CURRENT LEGAL POSITION IN ISSUING OPINIONS IN AUSTRALIA

9. Bankers' opinions come within the scope of Division 1 of Part V (the consumer protection provisions) of the Trade Practices Act 1974 and in particular sub-section 52(1) which prohibits, on a civil basis, a corporation in trade or commerce, engaging in conduct that is misleading or deceptive or is likely to mislead or deceive. The general remedy for a

contravention of section 52 of the Act is damages under section 82. However, if the opinion contravenes one of the specific prohibitions contained in section 53 (false or misleading representations) or section 55A (certain misleading conduct in relation to services) the bank may be liable to prosecution and be subject to a fine not exceeding $100,000.

10. At common law, notwithstanding the fact that bankers' opinions are issued with a disclaimer of responsibility, there is a considerable body of case law dealing with the provision of information and advice and it is well established that bankers are under a duty of care to ensure that information provided in opinions is factual and given without negligence. While there would appear to be numerous precedents in case law, two major Australian cases, in particular, have resulted in judgements being given against banks for being negligent in failing to exercise reasonable care and skill in giving an opinion or because the opinion was false or fraudulent, or given recklessly without regard to the truth.

CONSIDERATION OF THE ISSUES

11. In considering the concerns raised by the Stewart Commission, the Working Group first acknowledges the Commission's observation that the circumstances whereby a managing director of an alleged merchant bank was, in effect, able to prepare his own bank reference were extraordinary, particularly given the clear, well established legal obligation on bankers to exercise a duty of care in issuing opinions on their clients and the fact that it is not normal practice for banks to negotiate on the content of their opinions.

12. The Working Group also considers it is particularly relevant that obtaining favourable opinions on their activities was but one part in a chain of deception and fraud perpetrated by the principals of the Nugan Hand Group. As noted by the Commission, the first step in this chain was the preparation of a set of accounts which misrepresented the true financial position of Nugan Hand Ltd (particularly in conveying a false impression of a rapidly expanding asset base). The second step was to obtain the cooperation of the Nugan Hand Group's auditors in certifying these accounts. It was largely on the basis of those certified (but false) accounts that favourable opinions on Nugan Hand Ltd's activities were able to be elicited from the branch of the bank with whom it dealt.

OPTIONS

13. In considering a possible Government response to the Stewart Commission's recommendation there would appear to be essentially two options:

a) Accept the thrust of the Commission's recommendation and seek to establish, either by legislation or voluntary cooperation, a set of guidelines to be followed by banks in issuing opinions on their clients; or

b) continue to rely on the provisions of Division 1 of Part V of the Trade Practices Act 1974 and the common law 'duty of care' doctrine which already provide appropriate legal sanctions against false and misleading representations and negligence, respectively, in the issue of opinions by banks on their clients.

14. Option (a) has a possible advantage in that it could provide for some standardisation of the nature and detail of information included in bankers' opinions and, in particular, could go some way to meeting the specific concern of the Commission that only selective (ie favourable) balance sheet

information was included in opinions on Nugan Hand Ltd issued by its bank while other more important information, such as the Group's profitability, was excluded. That concern notwithstanding, the fact remains that the abovementioned first two links in the chain of fraud and deception perpetrated by the Nugan Hand Group were crucial to favourable opinions being obtained. Since those two links were clearly beyond the purview of information that could reasonably be expected to be subject to verification by any bank, it is doubtful whether any prescribed guidelines would have significantly altered the nature of the bank's opinion in this instance.

15. As indicated earlier, the essential basis for issuing opinions is the bank's knowledge of the manner in which the client has conducted its accounts and the client's reliability in meeting its commitments to the bank. From the information available, it would seem that the Nugan Hand Group carefully orchestrated its dealings with the branch of the bank with whom it dealt to ensure an impression of reliability and soundness on both counts.

16. More generally, the detail of information included in bankers' opinions is essentially dictated by the nature of the enquiry itself. As the details included in an opinion will vary depending on what is relevant to the enquiry, a set of strict guidelines would seem impractical. Moreover, the ABA has advised that the vast majority of opinions are given orally and that form is preferred.

17. Against that background, the Working Group concludes that implementation of formal guidelines to be followed by banks in issuing opinions is neither practicable nor necessary in meeting the concerns of the Stewart Commission. The Trade Practices Act and the common law 'duty of care' doctrine provide substantial legal sanctions in the event that opinions are given which are false or misleading, or prepared negligently. Furthermore, the Working Group notes that the Commission's other recommendations directed to the first two links in the chain of events mentioned above, particularly Recommendation 11.7 concerning the scope and duty of auditors would, if effectively met, go a long way to ensuring that the circumstances giving rise to its concerns regarding bankers' opinions do not reoccur.

18. The Working Group also notes that the issuing of bankers' opinions is not a matter that appears to be subject to any governmental direction in other countries. A summary of practices in issuing bankers' opinions and their legal standing in the UK, US and Japan is Attached.

19. The Working Group recognises, however, that there were several shortcomings identified by the Commission with aspects of the opinions issued on Nugan Hand Ltd that should have been readily apparent to the bank concerned since it would seem from the evidence available that they went beyond the bank's own criteria and guidelines. The Working Group considers therefore that these shortcomings identified by the Commission should be brought formally to the attention of banks with a view to seeking their assurances of greater vigilance in avoiding future problems.

RECOMMENDATIONS

20. The Working Group considers that the implementation of formal guidelines to be adhered to by banks in the issuing of opinions on the financial standing of their clients is

neither necessary nor practicable in addressing the concerns raised by the Stewart Royal Commission. It nevertheless recommends that the concerns of the Commission be formally brought to the attention of individual banks by the Reserve Bank with a view to seeking their assurances of greater vigilance and avoiding the shortcomings identified in future.

The Treasury
Attorney-General's Department
Reserve Bank of Australia

ATTACHMENT

PRACTICES IN SOME OTHER COUNTRIES

(i) UNITED KINGDOM

Legal Standing

There is no British statute law which relates directly to bankers' opinions, and no recent case law. Banks in the UK distinguish themselves from credit reference agencies (which are subject to the provisions of the Consumer Credit Act) in that the latter obtain information about other parties in order to provide it to third parties.

Current Practice

2. The practice followed in issuing bankers' opinions in the UK is, as might be expected, essentially the same as that in Australia. In essence, the clearing banks issue standing instructions to their branch managers about preparing bankers' opinions. These instructions indicate whose requests for opinions are to be responded to, and how to respond. Under these instructions, bankers' opinions are normally issued by a branch manager on the same day as the request is received, and on the basis of the information he has to hand about the running of the client's account and his knowledge of the client's business.

(ii) UNITED STATES

Legal Standing

3. There is no legislation specifically relating to the issue of bankers' opinions and neither the US Treasury nor the Federal Reserve Board play any role in the oversighting of the practice. The involvement of the authorities in the use of opinions appears solely related to opinions/references between governmental instrumentalities.

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4. It is difficult to assess the role of bankers' opinions in the United States given the vast number and variety of financial institutions. Major banking houses do provide references for valued clients but these are tempered by the knowledge that legal recourse may be taken for any damages resulting from a misleading reference. In essence, the issue of bankers' opinions/references appears to be solely a matter for individual institutions to determine and there may not even be any informal guidelines governing their use.

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DEPARTMENT OF THE PRIME MINISTER AND CABINET

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Acting Prime Minister
(For decision)

letter signed by Mr Bowen 21 Dec '84

STEWART ROYAL COMMISSION

Mr Justice Stewart has requested:

- an extension of the reporting time of his Royal Commission from 31 December 1984 to 30 April 1985;
- approval to travel overseas to the United States, Italy and the United Kingdom in January 1985.

On 14 December 1984, Cabinet approved the extension of the reporting time. The New South Wales Government has indicated its agreement to the extension on the basis of the present cost-sharing arrangements being continued.

With respect to the proposed travel, Mr Justice Stewart wishes to travel to the United States for between ten days and two weeks in connection with his Royal Commission enquiries into Nugan Hand. He then proposes to visit Italy and the United Kingdom for up to two weeks in his capacity as Chairman of the National Crime Authority to make contacts and hold discussions on organised crime control and law enforcement. (A two week trip to the United States was approved earlier this year but not proceeded with because of Mr Justice Stewart's commitments with regard to the transition from the Costigan Royal Commission to the National Crime Authority).

New South Wales has agreed to the travel proposals in connection with the Nugan Hand enquiries.

The Senior Counsel Assisting the Commission and the Secretary to the Commission would accompany Mr Justice Stewart in the United States and the Commission Secretary in his capacity as Acting Deputy Chief Executive Officer of the National Crime Authority would accompany him in the United Kingdom and Italy. Mrs Stewart would also travel with her husband.

The attached letter to Mr Justice Stewart, advising him of the extension of his Royal Commission and approving his proposed travel, is recommended for your signature.

A K Berendsen

A.K. Berendsen
Acting Assistant Secretary
Law Enforcement Branch
18 December 1984

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CANBERRA

The Hon. Neville Wran, QC MP
Premier of New South Wales
SYDNEY NSW 2000

With the Compliments

of the

Prime Minister

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ACTING PRIME MINISTER

CANBERRA

The Hon. Mr Justice D.G. Stewart
Commissioner
Royal Commission of Inquiry into the
Activities of the Nugan Hand Group
G.P.O. Box 2528
SYDNEY NSW 2001

Dear Judge

21 DEC 1984

I refer to your letters of 21 November 1984 to the Attorney-General seeking an extension of the term of your Royal Commission and to the Prime Minister concerning proposed overseas travel early next year.

The Commonwealth and New South Wales Governments have agreed to an extension of the term of your Commission to 30 April 1985. Action is in hand to obtain formal Executive Council approval to the extended term.

There has also been agreement to the proposals set out in your letter to the Prime Minister concerning travel overseas in January of next year. I should appreciate it if a copy of your itinerary could be sent to the Prime Minister when the details of your visit have been settled.

I note that the Senior Counsel Assisting the Commission, Mr P.J. Moss QC, and the Secretary to the Commission, Mr G.R. Linnane, will be accompanying you to the United States and that Mr Linnane will be travelling with you to Italy and the United Kingdom in his capacity as Acting Deputy Chief Executive Officer of the National Crime Authority. I note also that your wife will be travelling with you.

A copy of this letter is being sent to the Premier of New South Wales.

Yours sincerely

LIONEL BOWEN

Lionel Bowen

MA2111/0112

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ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN HAND GROUP

Commissioner: The Hon. Mr. Justice D. G. Stewart
Secretary: Mr. G. R. Linnane

G.P.O. Box 2528
Sydney N.S.W. 2001
Australia

Telephone: (02) 358 2488

21 November 1984

The Hon. R.J.L. Hawke, A.C., M.P.,
Prime Minister,
Parliament House,
CANBERRA. A.C.T. 2600.

Dear Prime Minister,

I refer to my letter of 29 February 1984 and to your reply of 11 April 1984 in relation to certain overseas travel I proposed to undertake as Royal Commissioner.

As you will be aware from our discussions in recent months, I deferred my proposed travel to the United States (which had been rescheduled from May/June 1984 to September/October 1984) because of the likelihood that the operational transition from the Costigan Royal Commission to the National Crime Authority would require my continuing presence in Australia during that period. The transition process is, of course, now complete.

It remains, however, important to the adequate conclusion of my investigation, as Royal Commissioner, of Nugan Hand related issues, to attend to the United States matters outlined in my letter of 29 February. Subject to your agreement, I propose therefore to travel to the United States in early January for the purposes elaborated in my previous letter and also to enable me to make certain preliminary contacts in that country in my capacity as inaugural Chairman of the National Crime Authority. On this basis, I anticipate being in the United States for between ten days and two weeks.

As there are a considerable number of contacts I would wish to make and discussions I would wish to hold in relation to recent developments in the organised crime control and law enforcement fields in both Italy and the United Kingdom, I propose to take the opportunity of my absence from Australia on this occasion also to visit those countries. I anticipate these activities would require my absence from Australia for an additional period of up to two weeks.

I propose that I be accompanied to the United States by Senior Counsel Assisting the Commission, Mr P.J. Moss, Q.C., and the Secretary to the Commission. Since Mr Linnane is also acting as Deputy Chief Executive Officer of the National Crime Authority, I intend that he accompany me to Italy and the United Kingdom. I also propose that my wife travel with me.

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I understand that sufficient funds for this purpose are available. In view of the Royal Commission cost sharing arrangements between the Commonwealth and New South Wales Governments, I have forwarded a copy of this letter to the Premier of New South Wales.

I would be obliged if early consideration could be given to this proposal. As a number of tentative arrangements will need to be confirmed as soon as possible, particularly in relation to United States aspects where it has been necessary previously to postpone arrangements, your early advice would be appreciated.

I have written today to the Honourable G.J. Evans, Q.C., Attorney-General, about the necessity of extending the term of my Royal Commission for a further period from 31 December 1984, and enclose a copy of that letter herewith.

Yours sincerely,

D.G. Stewart

Mr Justice Stewart

ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN HAND GROUP

Commissioner: THE HON. MR. JUSTICE D. G. STEWART
Secretary: MR. G. R. LINNANE

G.P.O. Box 2528
Sydney N.S.W. 2001
Australia

Telephone: (02) 358 2488

21 November 1984

Senator the Hon. G.J. Evans, Q.C.,
Attorney-General,
Parliament House,
CANBERRA. A.C.T. 2600.

Dear Attorney-General,

I am writing to request, formally, a further extension of time in which to conclude my inquiries pursuant to both my Clark terms of reference and my Nugan Hand Group terms of reference. You will recall I previously raised the question of this extension with you when I suggested an extension until April 1985 would, in my view, be sufficient. I have in recent months discussed this matter in similar terms with the Prime Minister and Special Minister of State. You will recall also your comments in this regard on 5 September 1984 in the Senate on the second reading of the Telecommunications (Interception) Amendment Bill (No 2) 1984.

You will be aware of the considerable amount of time I have devoted, since June, to my Chairmanship of the National Crime Authority. The establishment of the Authority has also necessarily required considerable involvement on the part of senior officers of my Commission. The conduct of inquiries relating to my drug trafficking terms of reference, to which the recent amendment of the Telecommunications (Interception) Act is related, has also made demands on my time and that of my senior staff and will continue to do so for some time.

My hearing program is such that I anticipate I will still be hearing from witnesses in relation to the Nugan Hand Group from now until the Commission rises for the Christmas holidays on 21 December. I will try to keep further evidence on that matter to an absolute minimum but it is likely I will have to hear some evidence in relation to it in February 1985. I am therefore working on the basis that my Nugan Hand report can be produced within two months from the cessation of the evidence on those terms of reference.

Included in the Nugan Hand evidence I have yet to hear is that relevant to certain United States residents. Subject to the agreement of the Prime Minister which I have sought in a letter to him today, I anticipate obtaining that information in the United States during January 1985.

I am also awaiting the results of an exercise using the Commission's computer facilities which has been conducted by the Commission's accountants for some months past. I am given to understand that these results (which deal with the true state of the annual accounts of the main companies within the Nugan Hand Group) will not be available much before 21 December. It is likely that these results, when available, will need to be put to certain key Nugan Hand witnesses.

About half way through this year I did indicate to you, in discussion, that I was then of the view that an interim report on term (b) of my Nugan Hand terms of reference (the Local Government aspect of my inquiry) would be delivered in the near future. I have been trying to finalise that interim report whilst continuing to hear evidence relating to the remainder of my inquiries. The present position is that I now expect to be in a position to deliver an interim report on term (b) prior to Christmas.

For these reasons, briefly stated, I respectfully request that the time for the conclusion of my various inquiries pursuant to my existing terms of reference be extended up to and including 30 April 1985.

Because of the participation of the New South Wales Government in my Commission, I am forwarding a copy of this letter to the Premier of New South Wales. I have also forwarded a copy to the Prime Minister and the Special Minister of State.

Yours sincerely,

Mr Justice Stewart

CENTRAL REGISTRY
23 Nov 84 11 12
FILE NO

ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN HAND GROUP

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ıissioner: The Hon. Mr. Justice D. G. Stewart
ct[illegible] Mr. G. R. Linnane

G.P.O. Box 2528
Sydney N.S.W. 2001
Australia

Telephone: (02) 358 2488

23/11/84
Action by A-G
Act/Rep by STS
Act/Rep by Dept
Information
Action/prep. Action
Advice
✓ Copy held for A-G to see
Final within two weeks
STS

21 November 1984

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Attorney-General,
Parliament House,
CANBERRA. A.C.T. 2600.

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Yours sincerely,

D.G. Stewart

Mr Justice Stewart

X

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Department of the Prime Minister and Cabinet

Registration of Ministerial Correspondence
Information for Visual Display Unit Operators

SCRIBE REFERENCE NUMBER MC0712/003V

Form PX79-2/78

1 MCU/LIAISON

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► CORRESPONDENCE CATEGORY PREMS ► DEPARTMENT CODE MC ► CLASSIFICATION M

► ORIGINATOR ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN ► SUBJECT HAND GROUP

► DATE OF INITIAL RECEIPT (MC,MD,ME - DATE OF LETTER) 04/12/84 ► FILE NUMBER (If Known) _____

► DATE REQUIRED (If applicable) __/__/__ ► REFERRED TO (FWSW) (BER)

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2 MCU ACTION ONLY

☐ TKS FOR SUPPORT ☐ BRIEF ACK ☐ TKS FOR VIEWS ☐ COMMENTS NOTED ☐ NFA

☐ SHORT ACK ☐ LONG ACK ☐ CN AND BTA REFER TO MIN _____

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STATS _____ TO PROCESSOR _____ PROCESSOR _____ CHECKED _____

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DEPARTMENT OF THE PRIME MINISTER AND CABINET

INWARDS Teleprinter Message

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Referred to at on

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DEC 7 11 18 AM '84

7.12.84.

THE HON. R.J.L. HAWKE, A.C., M.P.,
PRIME MINISTER,
CANBERRA. A.C.T.

DEAR MR. HAWKE,

AS YOU KNOW, THE HON. MR. JUSTICE STEWART FORWARDED TO ME A COPY OF HIS LETTER OF THE 21ST NOVEMBER, 1984, TO THE COMMONWEALTH ATTORNEY GENERAL CONCERNING PROGRESS IN INQUIRIES ON HIS NUGAN HAND GROUP AND TERRENCE CLARK TERMS OF REFERENCE.

THE ROYAL COMMISSIONER'S REQUEST FOR A FURTHER EXTENSION OF TIME UNTIL THE 30TH APRIL, 1985, IN WHICH TO CONCLUDE THESE INQUIRIES HAS BEEN CONSIDERED AND I WISH TO ADVISE THAT NEW SOUTH WALES IS PREPARED TO AGREE TO THE EXTENSION SOUGHT ON THE BASIS OF THE PRESENT COST SHARING ARRANGEMENTS, SUBJECT TO THE COMMONWEALTH'S AGREEMENT.

IT IS NOTED THAT IF THE EXTENSION IS APPROVED, MR. JUSTICE STEWART PROPOSES TO VISIT THE UNITED STATES OF AMERICA IN JANUARY, 1985. NEW SOUTH WALES HAS AGREED TO SUCH TRAVEL IN CONNECTION WITH INQUIRIES INTO THE NUGAN HAND GROUP.

YOURS SINCERELY,

NEVILLE WRAN,
PREMIER.

NSWPREM AA21269
PRIMIN AA61616

TELEX MESSAGE

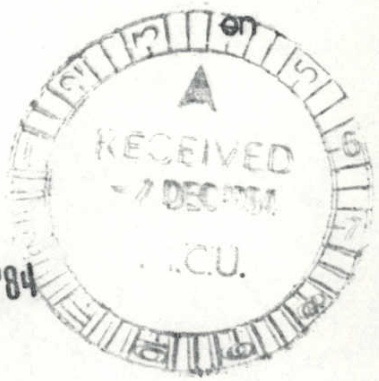
CENTRAL REGISTRY
10 DEC 84 13 33
FILE NO

INWARDS Teleprinter Message

143

Referred to at on

PRIMIN AA61616
NSWPREM AA21269



7.12.84.

THE HON. R.J.L. HAWKE, A.C., M.P.,
PRIME MINISTER,
CANBERRA. A.C.T.

DEAR MR. HAWKE,

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YOURS SINCERELY,

NEVILLE WRAN,
PREMIER.

ADVANCE COPY

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COPIED TO PAS - JUSTICE

NSWPREM AA21269
PRIMIN AA61616

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INWARDS Teleprinter Message

142

Referred to at on

PRIMIN AA61616
NSWPREM AA21269

7.12.84.

THE HON. R.J.L. HAWKE, A.C., M.P.,
PRIME MINISTER,
CANBERRA. A.C.T.

DEAR MR. HAWKE,

AS YOU KNOW, THE HON. MR. JUSTICE STEWART FORWARDED TO ME A COPY OF HIS LETTER OF THE 21ST NOVEMBER, 1984, TO THE COMMONWEALTH ATTORNEY GENERAL CONCERNING PROGRESS IN INQUIRIES ON HIS NUGAN HAND GROUP AND TERRENCE CLARK TERMS OF REFERENCE.

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YOURS SINCERELY,

NEVILLE WRAN,
PREMIER.

ADVANCE COPY

ORIGINAL TO AS-LAW ENF

COPIED TO FAS-JUSTICE

NSWPREM AA21269
PRIMIN AA61616

MESSAGE TELEX MESSAGE TELEX MESSAGE TELEX MESSAGE TELEX MESSAGE

RECEIVED
Secretary
Prime Minister and Cabinet
19 DEC 1984

Daniel Ratt
270 4784

141

Enquiries: Mr. D. Austin
Telephone: ~~270 4606~~
27044 42

PREMIER'S DEPARTMENT

NEW SOUTH WALES

TELEPHONE: (02) 2 0576
TELEX: AA21269
TELEGRAPHIC ADDRESS: MANIPRETE

STATE OFFICE BLOCK
MACQUARIE STREET
SYDNEY, N.S.W. 2000

13 DEC 1984

Dear Sir Geoffrey,

His Excellency the Governor and the Executive Council have approved of the time within which the Hon. Mr. Justice D.G. Stewart is required to inquire into and report upon certain matters relating to the activities of the Nugan Hand Group being extended until 30th April, 1985.

A copy of the Royal Commission by Letters Patent issued under the Great Seal of the State of New South Wales and the hand of His Excellency the Governor accordingly is attached for information.

Yours faithfully,

(David Austin)
for Secretary.

Sir Geoffrey Yeend, C.B.E.,
Secretary,
Department of the Prime Minister
and Cabinet,
CANBERRA. A.C.T. 2600.

Elizabeth the Second, by the Grace of
and Her other Realms and Te
Commonwealth

To Our Trusty and Well-beloved

DONALD GERARD STEWART

GREETING:

Whereas by Royal Commission by Letters Patent under the Great Seal of Our State of New South Wa Our Governor of Our said State dated the twenty-fourth day of June, nineteen hundred and eighty-one and recorded in abovenamed DONALD GERARD STEWART, were authorised to inquire into and report upon certain matters relating to Terre WHEREAS by further Letters Patent issued in Our name under the Great Seal of Our said State and the hand of Sir JAM on the twenty-eighth day of March, nineteen hundred and eighty-three and recorded in the Register of Patents, No. 79, page 1 required to do so by the Letters Patent issued on the twenty-fourth day of June, nineteen hundred and eighty-one, to make inqui of the Nugan Hand Group: AND WHEREAS by the Letters Patent issued as aforesaid on the twenty-eighth day of March, notwithstanding anything contained in the Letters Patent issued on the twenty-fourth day of June, nineteen hundred and eighty-one, to make your inquiry as expeditiously as possible and, not later than the thirty-first day of December, nineteen hundred and eighty- report of the results of your inquiry and your recommendations: AND WHEREAS it is desirable that the time within which you a State a report of the results of your inquiry and your recommendations be extended: NOW THEREFORE We do, by these Our of Our said State and the hand of Sir JAMES ANTHONY ROWLAND, Our Governor of Our said State, with the advice of the than the thirtieth day of April, nineteen hundred and eighty-five, to furnish to Our said Governor of Our said State a report AND WE DECLARE that these Our Letters Patent shall be read with Our said Commission: AND WE DO FURTHER DECLARE and with respect to this inquiry.

In Testimony Whereof, We have caused these Our Letters to be made Patent, and th

Great Seal of the
State of New South Wales.

Witness Our Trusty and Well-beloved Sir
Most Excellent Order of the I
decorations of the Distinguished
Our State of New South Wales, i
State, this 12th day
and in the thirty-third year of O

By His Excellency's Command,

Neville Wran

ENTERED on Record by me, in REGISTER OF PATENTS, No. 80 , Page 97 , this 12th day of December, nineteen hundred and eighty-four.

K.L. Costello
for SECRETARY,
OFFICE OF THE MINISTER FOR POLICE AND EMERGENCY SERVICES.

Elizabeth the Second, by the Grace of God Queen of Australia and Her other Realms and Territories, Head of the Commonwealth

and Well-beloved

GERARD STEWART

ETING:

yal Commission by Letters Patent under the Great Seal of Our State of New South Wales and the hand of Sir JAMES ANTHONY ROWLAND, said State dated the twenty-fourth day of June, nineteen hundred and eighty-one and recorded in the Register of Patents, No. 78, page 175, you, the ERARD STEWART, were authorised to inquire into and report upon certain matters relating to Terrence John Clark and persons associated with him: AND Letters Patent issued in Our name under the Great Seal of Our said State and the hand of Sir JAMES ANTHONY ROWLAND, Our Governor of Our said State of March, nineteen hundred and eighty-three and recorded in the Register of Patents, No. 79, page 112, you were required, to the extent that you were not Letters Patent issued on the twenty-fourth day of June, nineteen hundred and eighty-one, to make inquiry and report upon certain matters relating to the activities oup: AND WHEREAS by the Letters Patent issued as aforesaid on the twenty-eighth day of March, nineteen hundred and eighty-three, you were required, contained in the Letters Patent issued on the twenty-fourth day of June, nineteen hundred and eighty-one, or any Letters Patent subsequently issued amending them, expeditiously as possible and, not later than the thirty-first day of December, nineteen hundred and eighty-three, to furnish to Our said Governor of Our said State a ur inquiry and your recommendations: AND WHEREAS it is desirable that the time within which you are required to furnish to Our said Governor of Our said ults of your inquiry and your recommendations be extended: NOW THEREFORE We do, by these Our Letters Patent issued in Our name under the Great Seal the hand of Sir JAMES ANTHONY ROWLAND, Our Governor of Our said State, with the advice of the Executive Council of Our said State, require you, not later April, nineteen hundred and eighty-five, to furnish to Our said Governor of Our said State a report of the results of your inquiry and your recommendations: t these Our Letters Patent shall be read with Our said Commission: AND WE DO FURTHER DECLARE that the Royal Commissions Act, 1923, shall apply to inquiry.

In Testimony Whereof, We have caused these Our Letters to be made Patent, and the Great Seal of Our said State to be hereunto affixed.

e
th Wales.

Witness Our Trusty and Well-beloved Sir JAMES ANTHONY ROWLAND, Knight Commander of Our Most Excellent Order of the British Empire, upon whom have been conferred the decorations of the Distinguished Flying Cross and the Air Force Cross, Our Governor of Our State of New South Wales, in the Commonwealth of Australia, at Sydney, in Our said State, this 12th day of December, in the year nineteen hundred and eighty-four and in the thirty-third year of Our Reign.

J.A. Rowland
Governor.

mmand,

Provided for inclusion in letter to Stewart by R. Illingworth (GCC Bank)

139

MINUTE TO CONTAIN

Mr Justice Stewart proposes to travel to the United States for 10 to 14 days in early January in connection with his Royal Commission enquiries and then to visit the United Kingdom and Italy in his capacity as Chairman of the National Police Authority for up to two weeks. A four week visit to the United States was originally planned with the agreement of the USG Government (a copy of correspondence is attached)

~~Mr Justice~~ Senior Counsel Assisting the Commission and the Secretary to the Commission would accompany Mr Justice Stewart in the United States and the acting Deputy Chief Executive Officer of the Authority would accompany him in the United Kingdom and Italy. Mrs Stewart would also travel with her husband.

We see no difficulty with Mr Justice Stewart's proposals regarding the travel and recommend that you agree to them

LETTER TO CONTRACTOR

I agree to the proposal in your letter of 21 November 1984 that you travel overseas in January next year. I should be grateful if you would forward a copy of your itinerary when the details of your visit have been settled.

I note that Senior Counsel Assisting the Commission and the Commission Secretary will accompany you in the United States and that you will be accompanied by the acting Deputy Chief Executive Officer of the National Crime Authority in the United Kingdom and Italy. I note also that your wife will be travelling with you.

137

PRIME MINISTER

FOR MEDIA 13 December 1984

The Prime Minister, Mr Hawke, and the Premier of New South Wales, today announced an extension of time for the Royal Commission headed by Mr Justice Stewart to conclude its inquiries.

On Thursday 12 December 1984, Mr Justice Stewart presented his second report under his Nugan Hand terms of reference and a further report under his Drug Trafficking Terms of reference.

Mr Justice Stewart is now required to report finally by 30 April 1985.

The question of a press statement was discussed by me with Mr McInnes. It was agreed that it would not be proposed at the present time.

17/12/84

Department of the Prime Minister and Cabinet
MINISTERIAL CORRESPONDENCE UNIT

N/F 136

BRANCH CORRESPONDENCE
Registration of Information

PX 217- 3/82

Correspondence Category: BR
Departmental Code: MA
Classification: M
Scribe Reference No.: MA2011/046F

Registry
File No: 83/0505/2
File Marking: AS L E
Despatch:

General Information

Name: STEWART MR JUSTICE
Post Code: 2001

On Behalf of: Royal Commission of Inquiry into the Activities of the NUGAN HAND GROUP

Subject: HIGH RISE BLDNG EMERGENCY ARANGMT

Date of Correspondence: 20/11/84
Date Received in Department: 29/11/84
Referred to: (MIE) (BER)
Stats: AD 4/12/84 (Date)
Initials:

Action Record

Branch: LAW ENF. Officer: J. Plowman Date: 19/12/84
Advice: No further action.

Word Processor

Information Completed: 4/12/84 Information Updated: / /

Branch - Interim acknowledgement required if final reply cannot be completed quickly.

→ PM's office

ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN HAND GROUP

MA2011/0461

135

Commissioner: The Hon. Mr. Justice D. G. Stewart
Secretary: Mr. G. R. Linnane

G.P.O. Box 2528
Sydney N.S.W. 2001
Australia

Telephone: (02) 358 2488

20 November 1984

The Hon. Lionel Bowen, M.P.,
Minister for Trade and Minister Assisting
the Prime Minister,
Parliament House,
CANBERRA. A.C.T. 2600.

Dear Minister,

Thank you for your letter of 31 October 1984, in which you advised me of the outcome of a review of emergency arrangements relating to Westfield Towers in particular and other high-rise buildings generally, conducted as a result of concerns I expressed to the Prime Minister following the emergency evacuation of the Westfield Towers building on 12 December 1983.

I am gratified by your advice that the relevant New South Wales authorities have, in close consultation with appropriate Commonwealth representatives, now prepared a general plan to provide a coordinated response to emergencies in high-rise buildings and that the plan came into operation on 6 September 1984. You may be assured that the application of the general plan to any future emergency will, on my part, be observed with keen interest.

I think it highly desirable to use appropriate existing inter-governmental mechanisms to seek to extend the operation of such emergency measures to the other States and I commend the proposal to achieve this end through the Standing Advisory Committee on Commonwealth/State Co-operation for Protection Against Violence.

I appreciate your advice to me on these matters.

Yours sincerely,

D.G. Stewart

Mr Justice Stewart

CENTRAL REGISTRY
5 DEC 84 08 40
FILE NO

134

PREMIER'S DEPARTMENT
SYDNEY

Facsimile Phone No. -
(02) 231-1110

TO: MR. ALAN BERENDSEN
ASSISTANT SECRETARY
DEPT. PRIME MINISTER AND CABINET

FROM: DAVID AUSTIN
PREMIER'S DEPARTMENT
SYDNEY
PHONE: (02) 20576

DATE: 7-12-84 NO. OF PAGES FOLLOWING: ONE

COMMENTS:-

FOR INFORMATION.

Any queries re transmission of Facsimile, please contact:-
Jennifer Jones
Premier's Department, SYDNEY.
Ph. (02) 270-4031.

GA
62955
PRIMIN AA61616
NSWPREM AA21269

7.12.84.

THE HON. R.J.L. HAWKE, A.C., M.P.,
PRIME MINISTER,
CANBERRA. A.C.T.

DEAR MR. HAWKE,

AS YOU KNOW, THE HON. MR. JUSTICE STEWART FORWARDED TO ME A COPY OF HIS LETTER OF THE 21ST NOVEMBER, 1984, TO THE COMMONWEALTH ATTORNEY GENERAL CONCERNING PROGRESS IN INQUIRIES ON HIS NUGAN HAND GROUP AND TERRENCE CLARK TERMS OF REFERENCE.

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YOURS SINCERELY,

NEVILLE WRAN,
PREMIER.

NSWPREM AA21269
*
PRIMIN AA61616

132

PREMIER'S DEPARTMENT
SYDNEY

Facsimile Phone No. -
(02) 231-1110

TO: Mr. A. Berendsen
Asst. Secretary
Department of the
Prime Minister & Cabinet

FROM: David Austin
Premiers Department
Sydney
PHONE: 270 4606

DATE: 7:12:84 NUMBER OF PAGES FOLLOWING: 2

COMMENTS:- Proof Copy Only
of Proposed Letters
Patent For Ex. Co.
on 19.12.84
As Discussed

Any queries re transmission of facsimile or if message not received in full, please contact:

Jennifer Jones
Premier's Department SYDNEY
Phone: (02) 270-4031
Telex: NSWPREM AA21269

Elizabeth the Second, by the Grace of God Queen of Australia and Her other Realms and Territories, Head of the Commonwealth.

To Our Trusty and Well-beloved

DONALD GERARD STEWART

GREETING:

Whereas by Royal Commission by Letters Patent under the Great Seal of Our State of New South Wales and the hand of Sir JAMES ANTHONY ROWLAND, Our Governor of Our said State dated the twenty-fourth day of June, nineteen hundred and eighty-one and recorded in the Register of Patents, No. 78, page 175, you, the abovenamed DONALD GERARD STEWART, were authorised to inquire into and report upon certain matters relating to Terrence John Clark and persons associated with him: AND WHEREAS by further Letters Patent issued in Our name under the Great Seal of Our said State and the hand of Sir JAMES ANTHONY ROWLAND, Our Governor of Our said State on the twenty-eighth day of March, nineteen hundred and eighty-three and recorded in the Register of Patents, No. 79, page 112, you were required, to the extent that you were not required to do so by the Letters Patent issued on the twenty-fourth day of June, nineteen hundred and eighty-one, to make inquiry and report upon certain matters relating to the activities of the Nugan Hand Group: AND WHEREAS by the Letters Patent issued as aforesaid on the twenty-eighth day of March, nineteen hundred and eighty-three, you were required, notwithstanding anything contained in the Letters Patent issued on the twenty-fourth day of June, nineteen hundred and eighty-one, or any Letters Patent subsequently issued amending them, to make your inquiry as expeditiously as possible and, not later than the thirty-first day of December, nineteen hundred and eighty-three, to furnish to Our said Governor of Our said State a report of the results of your inquiry and your recommendations: AND WHEREAS it is desirable that the time within which you are required to furnish to Our said Governor of Our said State a report of the results of your inquiry and your recommendations be extended: NOW THEREFORE We do, by these Our Letters Patent issued in Our name under the Great Seal of Our said State and the hand of Sir JAMES ANTHONY ROWLAND, Our Governor of Our said State, with the advice of the Executive Council of Our said State, require you, not later than the thirtieth day of April, nineteen hundred and eighty-five, to furnish to Our said Governor of Our said State a report of the results of your inquiry and your recommendations: AND WE DECLARE that these Our Letters Patent shall be read with Our said Commission: AND WE DO FURTHER DECLARE that the Royal Commissions Act, 1923, shall apply to and with respect to this inquiry.

130

In Testimony Whereof, We have caused these Our Letters to be made Patent, and the Great Seal of Our said State to be hereunto affixed.

Witness Our Trusty and Well-beloved Sir JAMES ANTHONY ROWLAND, Knight Commander of Our Most Excellent Order of the British Empire, upon whom have been conferred the decorations of the Distinguished Flying Cross and the Air Force Cross, ~~Knight of Grace of the Most Venerable Order of St John of Jerusalem,~~ Our Governor of Our State of New South Wales, in the Commonwealth of Australia, at Sydney, in Our said State, this day of December, in the year nineteen hundred and eighty-four and in the thirty-third year of Our Reign.

By His Excellency's Command,

Governor.

130

File 129

DEPARTMENT OF THE PRIME MINISTER AND CABINET

~~81/01708~~
83/0505

Mr Illingworth
Government and Legal Branch

OVERSEAS VISIT PROPOSAL - MR JUSTICE STEWART

I refer to your memorandum of 6 December 1984 seeking advice on Mr Justice Stewart's proposed travel.

Providing that Cabinet agrees to an extension of the Stewart Royal Commission, we have no objections to the proposed travel to the United States for between 10 days and 2 weeks in January.

Mr Justice Stewart's proposed visits to Italy and the United Kingdom appear to relate to his responsibilities as Chairman of the National Crime Authority. While we also have no objections to this proposed travel, I am unsure of what procedures should apply for the approval of travel undertaken in this capacity.

AK Berendsen

A. K. Berendsen
Acting Assistant Secretary
Law Enforcement Branch

12 December 1984

128

DEPARTMENT OF THE PRIME MINISTER AND CABINET

ACTING ASSISTANT SECRETARY
LAW ENFORCEMENT BRANCH

OVERSEAS VISIT PROPOSAL*

I should be grateful for your advice concerning the attached travel proposal. In particular, your advice concerning the following matters would be appreciated -

- the importance of the purpose, or each purpose, of the travel
- the need for, or appropriateness of, the travel being undertaken by the proposed person or persons
- commitments or likely developments in Australia that could militate against the proposed travel
- any other issue which you consider may have bearing on the appropriateness of the visit.

R. Illingworth
Government and Legal Branch
(Ext. 4993)

6 DECEMBER 1984

* Previous correspondence is attached also.

ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN HAND GROUP

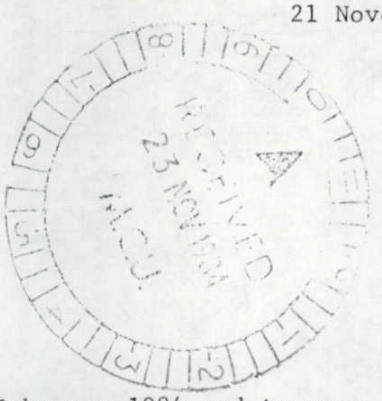
127

C[redacted]oner: The Hon. Mr. Justice D. G. Stewart
Secretary: Mr. G. R. Linnane

G.P.O. Box 2528
Sydney N.S.W. 2001
Australia

Telephone: (02) 358 2488

21 November 1984



The Hon. R.J.L. Hawke, A.C., M.P.,
Prime Minister,
Parliament House,
CANBERRA. A.C.T. 2600.

Dear Prime Minister,

I refer to my letter of 29 February 1984 and to your reply of 11 April 1984 in relation to certain overseas travel I proposed to undertake as Royal Commissioner.

As you will be aware from our discussions in recent months, I deferred my proposed travel to the United States (which had been rescheduled from May/June 1984 to September/October 1984) because of the likelihood that the operational transition from the Costigan Royal Commission to the National Crime Authority would require my continuing presence in Australia during that period. The transition process is, of course, now complete.

It remains, however, important to the adequate conclusion of my investigation, as Royal Commissioner, of Nugan Hand related issues, to attend to the United States matters outlined in my letter of 29 February. Subject to your agreement, I propose therefore to travel to the United States in early January for the purposes elaborated in my previous letter and also to enable me to make certain preliminary contacts in that country in my capacity as inaugural Chairman of the National Crime Authority. On this basis, I anticipate being in the United States for between ten days and two weeks.

As there are a considerable number of contacts I would wish to make and discussions I would wish to hold in relation to recent developments in the organised crime control and law enforcement fields in both Italy and the United Kingdom, I propose to take the opportunity of my absence from Australia on this occasion also to visit those countries. I anticipate these activities would require my absence from Australia for an additional period of up to two weeks.

I propose that I be accompanied to the United States by Senior Counsel Assisting the Commission, Mr P.J. Moss, Q.C., and the Secretary to the Commission. Since Mr Linnane is also acting as Deputy Chief Executive Officer of the National Crime Authority, I intend that he accompany me to Italy and the United Kingdom. I also propose that my wife travel with me.

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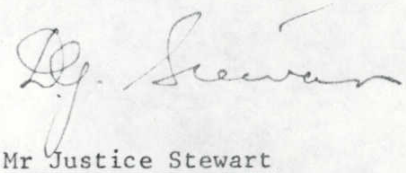
I understand that sufficient funds for this purpose are available. In view of the Royal Commission cost sharing arrangements between the Commonwealth and New South Wales Governments, I have forwarded a copy of this letter to the Premier of New South Wales.

I would be obliged if early consideration could be given to this proposal. As a number of tentative arrangements will need to be confirmed as soon as possible, particularly in relation to United States aspects where it has been necessary previously to postpone arrangements, your early advice would be appreciated.

I have written today to the Honourable G.J. Evans, Q.C., Attorney-General, about the necessity of extending the term of my Royal Commission for a further period from 31 December 1984, and enclose a copy of that letter herewith.

Yours sincerely,



Mr Justice Stewart

ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN HAND GROUP

125

Commissioner: The Hon. Mr. Justice D. G. Stewart
Secretary: Mr. G. R. Linnane

G.P.O. Box 2528
Sydney N.S.W. 2001
Australia

Telephone: (02) 358 2488

21 November 1984

Senator the Hon. G.J. Evans, Q.C.,
Attorney-General,
Parliament House,
CANBERRA. A.C.T. 2600.

Dear Attorney-General,

I am writing to request, formally, a further extension of time in which to conclude my inquiries pursuant to both my Clark terms of reference and my Nugan Hand Group terms of reference. You will recall I previously raised the question of this extension with you when I suggested an extension until April 1985 would, in my view, be sufficient. I have in recent months discussed this matter in similar terms with the Prime Minister and Special Minister of State. You will recall also your comments in this regard on 5 September 1984 in the Senate on the second reading of the Telecommunications (Interception) Amendment Bill (No 2) 1984.

You will be aware of the considerable amount of time I have devoted, since June, to my Chairmanship of the National Crime Authority. The establishment of the Authority has also necessarily required considerable involvement on the part of senior officers of my Commission. The conduct of inquiries relating to my drug trafficking terms of reference, to which the recent amendment of the Telecommunications (Interception) Act is related, has also made demands on my time and that of my senior staff and will continue to do so for some time.

My hearing program is such that I anticipate I will still be hearing from witnesses in relation to the Nugan Hand Group from now until the Commission rises for the Christmas holidays on 21 December. I will try to keep further evidence on that matter to an absolute minimum but it is likely I will have to hear some evidence in relation to it in February 1985. I am therefore working on the basis that my Nugan Hand report can be produced within two months from the cessation of the evidence on those terms of reference.

Included in the Nugan Hand evidence I have yet to hear is that relevant to certain United States residents. Subject to the agreement of the Prime Minister which I have sought in a letter to him today, I anticipate obtaining that information in the United States during January 1985.

I am also awaiting the results of an exercise using the Commission's computer facilities which has been conducted by the Commission's accountants for some months past. I am given to understand that these results (which deal with the true state of the annual accounts of the main companies within the Nugan Hand Group) will not be available much before 21 December. It is likely that these results, when available, will need to be put to certain key Nugan Hand witnesses.

About half way through this year I did indicate to you, in discussion, that I was then of the view that an interim report on term (b) of my Nugan Hand terms of reference (the Local Government aspect of my inquiry) would be delivered in the near future. I have been trying to finalise that interim report whilst continuing to hear evidence relating to the remainder of my inquiries. The present position is that I now expect to be in a position to deliver an interim report on term (b) prior to Christmas.

For these reasons, briefly stated, I respectfully request that the time for the conclusion of my various inquiries pursuant to my existing terms of reference be extended up to and including 30 April 1985.

Because of the participation of the New South Wales Government in my Commission, I am forwarding a copy of this letter to the Premier of New South Wales. I have also forwarded a copy to the Prime Minister and the Special Minister of State.

Yours sincerely,

D.J. Stewart

Mr Justice Stewart

ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN HAND GROUP

31/123

Commissioner: The Hon. Mr. Justice D. G. Stewart
Secretary: Mr. G. R. Linnane

G.P.O. Box 2528
Sydney N.S.W. 2001
Australia

Telephone: (02) 358 2488

18 April 1984

Dear Prime Minister,

Thank you for your letter of 11 April 1984 advising of your agreement to travel I am proposing to undertake to Hong Kong and Singapore in connection with the Commission's inquiry.

Yours sincerely,

Mr Justice Stewart

The Hon. R.J.L. Hawke, A.C., M.P.
Prime Minister
Parliament House
CANBERRA. A.C.T. 2600

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PRIME MINISTER

CANBERRA

11 APR 1984

The Hon Mr Justice D.G. Stewart
Royal Commissioner
Royal Commission of Inquiry into the
Activities of the Nugan Hand Group
GPO Box 2528
SYDNEY NSW 2001

My dear Judge

I agree to the proposal in your letter of 29 February 1984 that you travel to Singapore and Hong Kong this month. I note that you will be accompanied by your wife and Counsel assisting the Commission and that the appropriate approval is being sought for travel by the Commission Secretary.

I shall write to you shortly in relation to the visit you propose to make to the United States in May/June.

Yours sincerely

BOB HAWKE

R.J.L. Hawke

Mr Bolster
Mr Dunbar
11/4

OF THE NUGAN HAND GROUP

Commissioner: The Hon. Mr Justice D.G. Stewart
Secretary: Ms G.R. Linsay

G.P.O. Box 2528
Sydney N.S.W. 2001
Australia
Telephone: (02) 358 2488

29 February 1984

Dear Prime Minister,

Overseas Travel by the Commission

My inquiry into the matters relating to the activities of the Nugan Hand group specified in the terms of reference issued to me by your Government and the Government of New South Wales on 28 March 1983 has now progressed some distance. You will be aware that my interim report on terms of reference (e), (f) and (g), which concerned various allegations made in the Commonwealth Parliament and elsewhere of interference with an earlier investigation into Nugan Hand conducted by Australian law enforcement agencies, was presented to His Excellency the Governor-General in October 1983. This report was tabled in the Parliament on 6 December 1983. Examination of matters concerned with term of reference (b), relating to the activities of the Nugan Hand group with local government authorities in New South Wales, although taking somewhat longer to conclude than I had hoped, is proceeding. While the great majority of witnesses relevant to this part of my inquiry have completed their evidence there are some yet to be called and others of those who have already given evidence will have to be recalled. In the meantime however, so far as is practicable, work is proceeding on the drafting of an interim report on this subject matter.

Concurrently with the examination of these issues, to the extent possible with existing resources, Commission staff have been preparing matters arising out of the remaining terms of reference. These matters are broad and complex. They include the destruction and concealment of Nugan Hand documents in the period immediately following the death of the late Mr F.J. Nugan, the laundering of money not declared for income tax purposes and/or being the proceeds of criminal or illegal activities, fraudulent tax evasion schemes, illegal international currency movements, the publication of false balance sheets and accounts, illegal international arms dealing, the Singapore and Hong Kong operations of the Nugan Hand group, and the allegations concerning the use of the Nugan Hand group by the United States Central Intelligence Agency.

As foreshadowed in my letter of 21 February 1984, in now moving to a closer examination of these issues and the consideration of the documentary and other evidence before the Commission, including that of further investigations undertaken in recent months by Commission officers, it will be necessary for me to examine a number of persons resident outside Australia who were significant figures in the various Nugan Hand group operations. As has been pointed out often on earlier occasions, many of these persons have United States military and intelligence community backgrounds. Most reside in the United States of America.

original given to J. Ley.

The Commission has already established contact and had some dialogue with the majority of those persons. Of these, all have indicated a willingness to assist the Commission and to give evidence or be interviewed on matters related to their association with the Nugan Hand group. I would wish to take advantage of this stated willingness to cooperate at the earliest possible opportunity. I believe that my hearing the evidence of these persons or interviewing them directly is the most appropriate course.

I have in recent months discussed my intentions in this regard with the Minister for Foreign Affairs, the Acting Special Minister of State and the Special Minister of State. Discussions have been held with Department of Foreign Affairs officials concerning appropriate arrangements for the taking of evidence from and/or interviewing the abovementioned persons. I have also discussed with your Ministers the desirability, in all the circumstances, of my holding discussions in the United States with the Directors and senior officials of the Central Intelligence Agency and Federal Bureau of Investigation concerning claims made about the involvement of those organisations in the activities of the Nugan Hand group and related matters. You will, of course, be aware of the sensitivity of these matters and the need for discussions in relation to them to be held at appropriate levels.

The Commission has already had contact with those organisations and also with the Permanent Sub-committee on Investigations of the United States Senate Committee on Governmental Affairs, which has been involved in investigations touching aspects of the operations of Nugan Hand and the activities of persons associated with the Nugan Hand group. I would wish as well to take up with the Chairman and officials of the United States Senate Select Committee on Intelligence certain aspects of the investigation undertaken by that Committee into Nugan Hand related matters.

I consider it will also be necessary for me to visit Hong Kong and Singapore for the purposes of taking evidence from and/or interviewing a number of persons who were involved in the substantial and significant operations of the Nugan Hand group in those locations, and for discussions with senior office-holders and officials of certain Government agencies involved in the liquidation and investigation of Nugan Hand group companies and other related matters.

On this basis and in accordance with established practice, I seek your approval to the Commission undertaking the overseas travel necessarily involved in these proposals. Subject to the progress of my inquiries in Australia on these matters and the additional matter referred to in the letter of 28 February 1984 to me from the Premier of New South Wales, a copy of which I understand has been made available to you, I have in mind travelling to Singapore and Hong Kong for a period of approximately two weeks during early to mid-April 1984. On this occasion I would wish to be accompanied by Counsel Assisting the Commission, Mr P.J. Moss, Q.C., who is supervising this particular aspect of the Commission's investigations and by the Commission Secretary, Mr G.R. Linnane. I also propose that my wife should accompany me.

I have in mind also travelling to the United States in late May or early June 1984 for a period of approximately four weeks for the purposes mentioned above. This time will be spent principally in Washington D.C. but there are former employees of Nugan Hand who reside in Honolulu and in or near Los Angeles. I propose that on this occasion I be accompanied by Senior Counsel Assisting the Commission, Mr T. Simos, Q.C., the Commission Secretary and my wife. As Mr Linnane is a Commonwealth officer, I have asked that the appropriate approvals for his travel on both occasions be sought.

For various operational reasons I do not consider it feasible for the proposed travel to Hong Kong and Singapore to be taken in conjunction with the proposed travel to the United States.

I understand that funds for the purposes of this travel have been included in the financial estimates for the Commission. In view of the cost sharing arrangements for the Commission agreed between the Commonwealth and New South Wales Governments, I have forwarded a copy of this letter to the Premier of New South Wales. I would be obliged if early consideration could be given to the above proposals. As a great number of tentative arrangements will need to be confirmed and many logistical details attended to as soon as possible, your early advice would be very much appreciated.

Yours sincerely,

D.G. Stewart

Mr Justice Stewart

The Hon. R.J.L. Hawke, A.C., M.P.
Prime Minister
Parliament House
CANBERRA A.C.T. 2600

File 118

DEPARTMENT OF THE PRIME MINISTER AND CABINET

EXTENSION OF STEWART ROYAL COMMISSION

Talking Points

- The Royal Commissioner inquiring into the Nugan Hand Group, Mr Justice Stewart, has sought an extension of his reporting date until 30 April 1985.

- Mr Justice Stewart still holds letters patent covering his Terry Clark/Drug Trafficking terms of reference, as well as in respect of the Nugan Hand Group.

- He proposes to present two interim reports on Thursday 13 December:

  - one under the term of reference which requires him to investigate the Nugan Hand Group's involvement with NSW local government authorities (it is understood that this report will basically cover matters of NSW responsibility and will mainly be devoted to presenting explanations rather than recommendations);

  - a further report under his drug trafficking terms of reference on matters related to the Age Tapes material (it is intended that the OCLE will meet that day to consider this report).

- This leaves outstanding a report on the remaining Nugan Hand terms of reference (which cover the more general questions of illegality committed by the Group, and whether it was "used by, or cooperated with any person, organisation or body", which will include the CIA accusations).

- There seems little option but to approve the proposed extension. Mr Justice Stewart points to the extra demands placed on him by his chairmanship of the National Crime Authority and by the request, made by the NSW Premier and endorsed by the Commonwealth, that he give priority to Trimbole related matters

.../2

- however, there may be criticism that an extension delays the time before Mr Justice Stewart is able to give his undivided attention to his National Crime Authority responsibilities.

. Mr Justice Stewart holds joint Commonwealth and NSW commissions. The NSW Premier has approved the request. The extension will be on the basis of a continuation of the present cost-sharing arrangements with NSW.

Background

Mr Justice Stewart was appointed as Royal Commissioner to inquire into drug trafficking and the Terry Clark group in June 1981. In March 1983 his terms of reference were widened to require him to inquire into the affairs of the Nugan Hand Group, with a report due by 31 December 1983. This reporting date was extended to 30 June 1984 and then to the present date of 31 December 1984. Mr Justice Stewart has presented one report, under his Nugan Hand terms of reference, in October 1983. It dismissed allegations that members of the previous Government, including Mr Anthony and Mr Fife, had acted to curtail a Federal Narcotics Bureau investigation into Nugan Hand.

A K Berendsen

A.K. Berendsen
Acting Assistant Secretary
Law Enforcement Branch

11 December 1984

Preston

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DRAFT ONLY

C A B I N E T M I N U T E

Canberra, 13 December 1984

Decision No.

Without Submission - Extension of Stewart Royal Commission

The Cabinet agreed that the date by which the Stewart Royal Commission must report be extended to 30 April 1985.

Secretary to Cabinet

File. 115

DEPARTMENT OF THE PRIME MINISTER AND CABINET

EXTENSION OF STEWART ROYAL COMMISSION

Talking Points

- The Royal Commissioner inquiring into the Nugan Hand Group, Mr Justice Stewart, has sought an extension of his reporting date until 30 April 1985.

- Mr Justice Stewart still holds letters patent covering his Terry Clark/Drug Trafficking terms of reference, as well as in respect of the Nugan Hand Group.

- He proposes to present an interim report later this month under the term of reference which requires him to investigate the Nugan Hand Group's involvement with NSW local government authorities. It is understood that this report will basically cover matters of NSW responsibility and will mainly be devoted to presenting explanations rather than recommendations.

- The Royal Commission has indicated that, should the proposed extension be granted, Mr Justice Stewart will present two reports in April:

  - a further report on his drug trafficking terms of reference (including matters related to Mr Robert Trimbole and the Age Tapes material); and

  - a report on the outstanding Nugan Hand terms of reference (which cover the more general questions of illegality committed by the Group, and whether it was "used by, or cooperated with any person, organisation or body", which will include the CIA accusations).

- There seems little option but to approve the proposed extension. Mr Justice Stewart points to the extra demands placed on him by his chairmanship of the National Crime Authority and by the request, made by the NSW Premier and endorsed by the Commonwealth, that he give priority to Trimbole related matters

.../2

114

- however, there may be criticism that an extension delays the time before Mr Justice Stewart is able to give his undivided attention to his National Crime Authority responsibilities.

- Mr Justice Stewart holds joint Commonwealth and NSW commissions. The NSW Premier is expected to approve the request. The extension will be on the basis of a continuation of the present cost-sharing arrangements with NSW.

Background

Mr Justice Stewart was appointed as Royal Commissioner to inquire into drug trafficking and the Terry Clark group in June 1981. In March 1983 his terms of reference were widened to require him to inquire into the affairs of the Nugan Hand Group, with a report due by 31 December 1983. This reporting date was extended to 30 June 1984 and then to the present date of 31 December 1984. Mr Justice Stewart has presented one report, under his Nugan Hand terms of reference, in October 1983. It dismissed allegations that members of the previous Government, including Mr Anthony and Mr Fife, had acted to curtail a Federal Narcotics Bureau investigation into Nugan Hand.

A K Berendsen

A.K. Berendsen
Acting Assistant Secretary
Law Enforcement Branch

7 December 1984

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DRAFT

C A B I N E T M I N U T E

Canberra, 13 December 1984

Decision No.

Without Submission - Extension of Stewart Royal Commission

The Cabinet agreed that the date by which the Stewart Royal Commission must report be extended to 30 April 1985.

Secretary to Cabinet

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Department of the Prime Minister and Cabinet

Registration of Ministerial Correspondence
Information for Visual Display Unit Operators

SCRIBE REFERENCE NUMBER MD 1012/004K

Form PX79-2/78

1 MCU/LIAISON

Please record the following information

► CORRESPONDENCE CATEGORY MINS ► DEPARTMENT CODE MD ► CLASSIFICATION M

► ORIGINATOR EXTENSION OF TIME FOR STEWART ROYAL COMMISSION ► SUBJECT

► DATE OF INITIAL RECEIPT (MC,MD,ME - DATE OF LETTER) 10/12/84 ► FILE NUMBER (If Known)

► DATE REQUIRED (If applicable) / / ► REFERRED TO (MAG) (BEA)

► DATE RECEIVED IN DEPARTMENT (MC,MD,ME ONLY) 13/12/84 ● (INITIALS) RAG 13/12/84

2 MCU ACTION ONLY

☐ TKS FOR SUPPORT ☐ BRIEF ACK ☐ TKS FOR VIEWS ☐ COMMENTS NOTED ☐ NFA

☐ SHORT ACK ☐ LONG ACK ☐ CN AND BTA REFER TO MIN

OTHER DIRECTIONS

STATS TO PROCESSOR PROCESSOR CHECKED

3 VDU OPERATORS

Please record information from Sections 1 and 2 into the VDU's

● INFORMATION RECORDED 13/12/84 ● INFORMATION UPDATED / /

4 REGISTRY

Please record appropriate file number

►FILE NUMBER ► DESPATCHED / /

FILE MARKING AG-WALO ENF ● (INITIALS) / /

5 ACTION OFFICER

Please indicate if NFA by Department and mark correspondence and form to VDU. Also indicate if correspondence is the responsibility of another Branch, and mark correspondence and form to VDU, Registry and other Branch

☐ NO REPLY REQUIRED ☐ REFERRED TO FOR DIRECT REPLY

● (INITIALS) / /

6 VDU OPERATORS

Please record information from Section 5 into the VDU's

● (INITIALS) / /

MD 1012/004K
111

SENATOR THE HON. GARETH EVANS

ATTORNEY-GENERAL
PARLIAMENT HOUSE
CANBERRA A.C.T. 2600

M84/16092:DAH

10 DEC 1984

The Hon. R.J.L. Hawke, A.C., M.P.,
Prime Minister,
Parliament House,
CANBERRA ACT 2600

Dear Bob,

I enclose for your consideration a letter dated 21 November 1984 received from Mr Justice Stewart in his capacity as Royal Commissioner formally requesting a further extension of time in which to conclude his inquiries pursuant to both his Clark terms of reference and his Nugan Hand terms of reference until 30 April 1985. Mr Justice Stewart suggested an extension until April 1985 in discussions with me at the time of the public statements by N.S.W. Chief Justice, Sir Laurence Street, regarding Mr Justice Stewart's appointment as Chairman of the National Crime Authority. I understand that Mr Justice Stewart has also recently discussed the matter with you and our colleague the Special Minister of State.

In the circumstances, I see no objection to an extension for the period sought but this is, of course, a matter for your decision. I note that the Officials Committee on Law Enforcement is in a position to offer advice on the matter.

Yours sincerely,

Sgd

GARETH EVANS

CENTRAL REGISTRY
13 Dec 84 13 56
FILE NO

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RECEIVED
12 DEC 84 12 04
OFFICE OF
THE PRIME MINISTER
CANBERRA

SENATOR THE HON. GARETH EVANS

ATTORNEY-GENERAL
PARLIAMENT HOUSE
CANBERRA A.C.T. 2600

M84/16092:DAH

10 DEC 1984

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RECEIVED
13 DEC 1984
M.C.U.

The Hon. R.J.L. Hawke, A.C., M.P.,
Prime Minister,
Parliament House,
CANBERRA ACT 2600

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In the circumstances, I see no objection to an extension for the period sought but this is, of course, a matter for your decision. I note that the Officials Committee on Law Enforcement is in a position to offer advice on the matter.

Yours sincerely,

GARETH EVANS

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Mr G. Gleeson
Secretary
Premier's Department
State Office Block
SYDNEY NSW 2000

12 DEC 1984

Dear Mr Gleeson

I acknowledge receipt by the Prime Minister of the Premier's telex of 7 December concerning the Royal Commission of Inquiry into the Activities of the Nugan Hand Group.

Yours sincerely

J. V. TOWNSEND

J.V. Townsend
Senior Private Secretary

AG - NAH ENF

INWARDS Teleprinter Message

108

Referred to at on

OFF

PRIMIN AA61616
NSWPREM AA21269

DEC 7 11 18 AM '84

7.12.84.

THE HON. R.J.L. HAWKE, A.C., M.P.,
PRIME MINISTER,
CANBERRA. A.C.T.

DEAR MR. HAWKE,

AS YOU KNOW, THE HON. MR. JUSTICE STEWART FORWARDED TO ME A COPY OF HIS LETTER OF THE 21ST NOVEMBER, 1984, TO THE COMMONWEALTH ATTORNEY GENERAL CONCERNING PROGRESS IN INQUIRIES ON HIS NUGAN HAND GROUP AND TERRENCE CLARK TERMS OF REFERENCE.

THE ROYAL COMMISSIONER'S REQUEST FOR A FURTHER EXTENSION OF TIME UNTIL THE 30TH APRIL, 1985, IN WHICH TO CONCLUDE THESE INQUIRIES HAS BEEN CONSIDERED AND I WISH TO ADVISE THAT NEW SOUTH WALES IS PREPARED TO AGREE TO THE EXTENSION SOUGHT ON THE BASIS OF THE PRESENT COST SHARING ARRANGEMENTS, SUBJECT TO THE COMMONWEALTH'S AGREEMENT.

IT IS NOTED THAT IF THE EXTENSION IS APPROVED, MR. JUSTICE STEWART PROPOSES TO VISIT THE UNITED STATES OF AMERICA IN JANUARY, 1985. NEW SOUTH WALES HAS AGREED TO SUCH TRAVEL IN CONNECTION WITH INQUIRIES INTO THE NUGAN HAND GROUP.

YOURS SINCERELY,

NEVILLE WRAN,
PREMIER.

NSWPREM AA21269
#
PRIMIN AA61616

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CUTTINGS FROM The Age MELBOURNE DATE 7/12/84

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Justice Stewart to report on allegations of CIA link with Nugan Hand

By LINDSAY MURDOCH

The Royal Commissioner into drug trafficking, Mr Justice Stewart, will report early next year on allegations that America's Central Intelligence Agency played a role in illicit activities of the failed Nugan Hand banking group.

Mr Justice Stewart has examined in Australia and America documentation which linked former senior CIA agents with the group before its collapse in 1980.

Australian police revealed yesterday that a Sydney arms dealer linked to the CIA by an Italian investigating magistrate was believed to have had dealings with a founder of the bank, Michael Hand, who has disappeared.

'The Age' reported yesterday that Italian magistrate Carlo Palermo has claimed he has uncovered circumstantial evidence that Australia was a base for the CIA's trafficking in drugs and armaments.

Police said that investigators working for the Williams Royal Commission on drugs in 1980 seized telexes which indicated dealings between Hand, who was said to have worked for the CIA in Vietnam, and the Sydney man, Henry Eugene Bartholomeusz.

Two senior Federal Ministers have publicly expressed doubts about previous assurances given by the United States that the CIA had no ties with the Nugan Hand banking group, which was alleged to have been involved in illicit activities around the World, including arms dealing and drug trafficking.

Another Royal Commissioner, Mr Frank Costigan, QC, has raised allegations that former CIA agent and convicted smuggler Ed Wilson had an association with an Australian pilot who had had contact with the Nugan Hand group and a Melbourne businessman believed to be an arms dealer.

In parts of his report previously unpublicised, Mr Costigan uncovered considerable evidence of arms dealing linked to the Melbourne businessman and material which pointed to the involvement of the Nugan Hand bank.

It is believed that Mr Costigan, in these reports, said that Australia was being used increasingly as a staging post for the movement of illegal cargo on the international market.

Mr Costigan believes that cargo from Australia is subjected to less scrutiny at overseas ports. For instance, a shipment of drugs from Australia has much less chance of being checked at a US port than if it came from Asia or the Middle East.

Similarly, arms destined for the IRA or for insurgents in other countries had a better chance of escaping detection if concealed in cargo coming from Australia.

Mr Costigan found evidence of containers arriving in Australia and then vanishing, presumably to be freighted on to other destinations.

The Commonwealth-New South Wales joint task force on drug trafficking reported last year that its investigation of Nugan Hand found many links between individuals connected with the bank and individuals connected "in very significant ways" with US intelligence organisations, specifically the CIA and the Office of Naval Intelligence.

"At times these links appear to have been an intrinsic part of the ongoing activity and have the appearance of the direct involvement of the US intelligence community itself," the task force reported.

However, the task force said that taking into account all the available information, it was its view that the banking group was an entity unto itself, operated and controlled by the financial desires and excesses of Hand and his partner, Frank Nugan, who was found dead in January 1980. "At the same time there are a number of matters that give rise to serious disquiet. This occurs because of activities ... resulting from the relationships that some of the Nugan Hand group ... had with persons of US intelligence background," the task force said.

The CIA and crime in Australia

The findings of the task force, set up in 1980 after a recommendation from the Woodward Royal Commission, caused the CIA to protest to the Australian Government through the Australian Security Intelligence Organisation about what it said was the inaccurate naming by the task force of two CIA officers and claims that the CIA had not co-operated with the task force investigators in their work.

The US Government agreed to give full co-operation to Mr Justice Stewart's inquiry.

Mr Justice Stewart, the new head of the National Crime Authority, travelled to the United States in August this year. His Royal Commission powers on Nugan Hand end on 31 December, and his report is expected to be tabled in the first sitting of Federal Parliament next year.

The terms of reference of the commission announced in 1982 empowered it to investigate any links between Nugan Hand and intelligence organisations, including the CIA.

The Foreign Minister, Mr Hayden, said in May 1982, when he was Opposition Leader, that he had rejected assurances from the US Vice-President, Mr Bush, that the CIA had not interfered in Australian politics or been involved in the Nugan Hand Bank. Mr Hayden said the assurances, given by Mr Bush, could not be accepted unless Mr Bush had personally investigated the allegations about CIA activities, which he had not.

The Deputy Leader of the ALP, Mr Bowen, said in November 1982 that finding out if intelligence agencies had been more interested in crime than in intelligence was a "serious question".

"Intelligence agencies have a direct responsibility to gather intelligence, but the human element being what it is, that sort of cover, that sort of cloak, might be used to give the same people a chance to engage in massive illegal activities," Mr Bowen said.

"One is not accusing the CIA as such of any activity, but its personnel have certainly come under a searchlight in discussion in Australia and America as to whether they were entitled to engage in the activities in which they did."

The joint task force report said that by the time US intelligence personnel became involved in Nugan Hand in the late 1970s the group had "already commenced its death throes".

CUTTINGS FROM The Age MELBOURNE DATE 7/12/84

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The task force found that Ed Wilson, a CIA agent from 1955 until 1971, supplied in 1975-76 weapons and ammunition to Michael Hand in Africa. According to the task force, Frank Nugan, who was found by a coroner to have committed suicide, had written in 1975 of the supply of recoilless rifles, mortars, grenade launchers and machineguns to obviously non-government forces in Africa.

The task force found that Nugan Hand was alleged to have an involvement in the sale by the United States Navy of a spy ship to the then Iranian Government.

The report said the activities and associations from the 1960s through to the 1980s of Maurice Bernard Houghton, who established the bank's Saudi Arabian branch, suggested an intimate connection with US armed service personnel and individuals then and formerly highly-placed in the US intelligence community, and "at least one former senior member of Australia's own ASIO".

The task force report gave a description of the relationship between the US special forces (Green Beret) of which Michael Hand had been a member, and the CIA.

"For the CIA, as with all other intelligence agencies, covert action is mostly paramilitary in nature," the report said. "Although such actions are planned by professionals in the intelligence organisations, the operations themselves are to a large extent carried out by contract employees and mercenaries."

"While these contract employees tend to be a mixture of ex-military men, adventurers and mercenaries, much of the agency's manpower for special operations is furnished by the US armed services. In the South East Asian conflict of the 60s and 70s, and probably still today, the US Army's special forces provided much agency manpower for these operations. Small detachments of Green Berets were regularly placed directly under CIA control and even missions carried out outside the agency's direct command were closely watched by agency operators."

Working for the CIA in Vietnam, Hand was awarded America's second-highest gallantry award. He left Australia on a false passport in June 1980.

MA2111/0118

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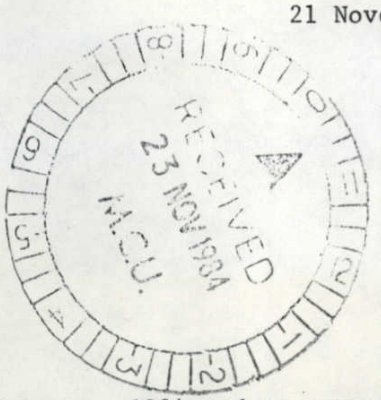
ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN HAND GROUP

Commissioner: THE HON. MR. JUSTICE D. G. STEWART
Secretary: MR. G. R. LINNANE

G.P.O. Box 2528
Sydney N.S.W. 2001
Australia

Telephone: (02) 358 2488

21 November 1984



The Hon. R.J.L. Hawke, A.C., M.P.,
Prime Minister,
Parliament House,
CANBERRA. A.C.T. 2600.

Dear Prime Minister,

I refer to my letter of 29 February 1984 and to your reply of 11 April 1984 in relation to certain overseas travel I proposed to undertake as Royal Commissioner.

As you will be aware from our discussions in recent months, I deferred my proposed travel to the United States (which had been rescheduled from May/June 1984 to September/October 1984) because of the likelihood that the operational transition from the Costigan Royal Commission to the National Crime Authority would require my continuing presence in Australia during that period. The transition process is, of course, now complete.

It remains, however, important to the adequate conclusion of my investigation, as Royal Commissioner, of Nugan Hand related issues, to attend to the United States matters outlined in my letter of 29 February. Subject to your agreement, I propose therefore to travel to the United States in early January for the purposes elaborated in my previous letter and also to enable me to make certain preliminary contacts in that country in my capacity as inaugural Chairman of the National Crime Authority. On this basis, I anticipate being in the United States for between ten days and two weeks.

As there are a considerable number of contacts I would wish to make and discussions I would wish to hold in relation to recent developments in the organised crime control and law enforcement fields in both Italy and the United Kingdom, I propose to take the opportunity of my absence from Australia on this occasion also to visit those countries. I anticipate these activities would require my absence from Australia for an additional period of up to two weeks.

I propose that I be accompanied to the United States by Senior Counsel Assisting the Commission, Mr P.J. Moss, Q.C., and the Secretary to the Commission. Since Mr Linnane is also acting as Deputy Chief Executive Officer of the National Crime Authority, I intend that he accompany me to Italy and the United Kingdom. I also propose that my wife travel with me.

I understand that sufficient funds for this purpose are available. In view of the Royal Commission cost sharing arrangements between the Commonwealth and New South Wales Governments, I have forwarded a copy of this letter to the Premier of New South Wales.

I would be obliged if early consideration could be given to this proposal. As a number of tentative arrangements will need to be confirmed as soon as possible, particularly in relation to United States aspects where it has been necessary previously to postpone arrangements, your early advice would be appreciated.

I have written today to the Honourable G.J. Evans, Q.C., Attorney-General, about the necessity of extending the term of my Royal Commission for a further period from 31 December 1984, and enclose a copy of that letter herewith.

Yours sincerely,

D.G. Stewart

Mr Justice Stewart

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ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN HAND GROUP

Commissioner: The Hon. Mr. Justice D. G. Stewart
Secretary: Mr. G. R. Linnane

G.P.O. Box 2528
Sydney N.S.W. 2001
Australia

Telephone: (02) 358 2488

21 November 1984

Senator the Hon. G.J. Evans, Q.C.,
Attorney-General,
Parliament House,
CANBERRA. A.C.T. 2600.

Dear Attorney-General,

I am writing to request, formally, a further extension of time in which to conclude my inquiries pursuant to both my Clark terms of reference and my Nugan Hand Group terms of reference. You will recall I previously raised the question of this extension with you when I suggested an extension until April 1985 would, in my view, be sufficient. I have in recent months discussed this matter in similar terms with the Prime Minister and Special Minister of State. You will recall also your comments in this regard on 5 September 1984 in the Senate on the second reading of the Telecommunications (Interception) Amendment Bill (No 2) 1984.

You will be aware of the considerable amount of time I have devoted, since June, to my Chairmanship of the National Crime Authority. The establishment of the Authority has also necessarily required considerable involvement on the part of senior officers of my Commission. The conduct of inquiries relating to my drug trafficking terms of reference, to which the recent amendment of the Telecommunications (Interception) Act is related, has also made demands on my time and that of my senior staff and will continue to do so for some time.

My hearing program is such that I anticipate I will still be hearing from witnesses in relation to the Nugan Hand Group from now until the Commission rises for the Christmas holidays on 21 December. I will try to keep further evidence on that matter to an absolute minimum but it is likely I will have to hear some evidence in relation to it in February 1985. I am therefore working on the basis that my Nugan Hand report can be produced within two months from the cessation of the evidence on those terms of reference.

Included in the Nugan Hand evidence I have yet to hear is that relevant to certain United States residents. Subject to the agreement of the Prime Minister which I have sought in a letter to him today, I anticipate obtaining that information in the United States during January 1985.

I am also awaiting the results of an exercise using the Commission's computer facilities which has been conducted by the Commission's accountants for some months past. I am given to understand that these results (which deal with the true state of the annual accounts of the main companies within the Nugan Hand Group) will not be available much before 21 December. It is likely that these results, when available, will need to be put to certain key Nugan Hand witnesses.

About half way through this year I did indicate to you, in discussion, that I was then of the view that an interim report on term (b) of my Nugan Hand terms of reference (the Local Government aspect of my inquiry) would be delivered in the near future. I have been trying to finalise that interim report whilst continuing to hear evidence relating to the remainder of my inquiries. The present position is that I now expect to be in a position to deliver an interim report on term (b) prior to Christmas.

For these reasons, briefly stated, I respectfully request that the time for the conclusion of my various inquiries pursuant to my existing terms of reference be extended up to and including 30 April 1985.

Because of the participation of the New South Wales Government in my Commission, I am forwarding a copy of this letter to the Premier of New South Wales. I have also forwarded a copy to the Prime Minister and the Special Minister of State.

Yours sincerely,

D.G. Stewart

Mr Justice Stewart

ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN HAND GROUP

101

...ioner: The Hon. Mr. Justice D. G. Stewart
...tary: Mr. G. R. Linnane

G.P.O. Box 2528
Sydney N.S.W. 2001
Australia

Telephone: (02) 358 2488

21 November 1984

23/11/84
Copy by A-G
Ack/Rep by SMS
Ack/Rep by Dept
Information
Ack/rep. Action
Advice
✓ Copy held for A-G to see
Final within two weeks
SMS

Senator the Hon. G.J. Evans, Q.C.,
Attorney-General,
Parliament House,
CANBERRA. A.C.T. 2600.

Dear Attorney-General,

I am writing to request, formally, a further extension of time in which to conclude my inquiries pursuant to both my Clark terms of reference and my Nugan Hand Group terms of reference. You will recall I previously raised the question of this extension with you when I suggested an extension until April 1985 would, in my view, be sufficient. I have in recent months discussed this matter in similar terms with the Prime Minister and Special Minister of State. You will recall also your comments in this regard on 5 September 1984 in the Senate on the second reading of the Telecommunications (Interception) Amendment Bill (No 2) 1984.

You will be aware of the considerable amount of time I have devoted, since June, to my Chairmanship of the National Crime Authority. The establishment of the Authority has also necessarily required considerable involvement on the part of senior officers of my Commission. The conduct of inquiries relating to my drug trafficking terms of reference, to which the recent amendment of the Telecommunications (Interception) Act is related, has also made demands on my time and that of my senior staff and will continue to do so for some time.

My hearing program is such that I anticipate I will still be hearing from witnesses in relation to the Nugan Hand Group from now until the Commission rises for the Christmas holidays on 21 December. I will try to keep further evidence on that matter to an absolute minimum but it is likely I will have to hear some evidence in relation to it in February 1985. I am therefore working on the basis that my Nugan Hand report can be produced within two months from the cessation of the evidence on those terms of reference.

Included in the Nugan Hand evidence I have yet to hear is that relevant to certain United States residents. Subject to the agreement of the Prime Minister which I have sought in a letter to him today, I anticipate obtaining that information in the United States during January 1985.

I am also awaiting the results of an exercise using the Commission's computer facilities which has been conducted by the Commission's accountants for some months past. I am given to understand that these results (which deal with the true state of the annual accounts of the main companies within the Nugan Hand Group) will not be available much before 21 December. It is likely that these results, when available, will need to be put to certain key Nugan Hand witnesses.

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For these reasons, briefly stated, I respectfully request that the time for the conclusion of my various inquiries pursuant to my existing terms of reference be extended up to and including 30 April 1985.

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Yours sincerely,

D.G. Stewart

Mr Justice Stewart

THE SPEAKER
RECEIVED
18 SEP 84 19
AUSTRALIA
OFFICE OF
THE PRIME MINISTER
CANBERRA

HON. DR H. A. JENKINS, M.P.
PARLIAMENT HOUSE
CANBERRA 2600. TEL. 72 6893

17 SEP 1984

Mr Preston
for your records
2 Oct '84

The Hon. R.J.L. Hawke, AC, MP,
Prime Minister,
Parliament House,
CANBERRA. A.C.T. 2600.

Dear Prime Minister,

I have received a letter from Mr Justice Stewart of the Royal Commission of Inquiry into the Activities of the Nugan Hand Group seeking certain advice.

For your information I enclose a copy of my response.

I am writing in similar terms to the Leader of the Opposition and Mr Steele Hall.

Yours sincerely,

H. A. Jenkins

SPEAKER

COPY 98

THE SPEAKER
THE HON. J.A. JARMAN, M.P.
PARLIAMENT HOUSE
CANBERRA 2600 TEL. 726393

13 September 1984

The Hon. Mr Justice D.G. Stewart,
Commissioner,
Royal Commission of Inquiry into the Activities
of the Nugan Hand Group,
G.P.O. Box 2528,
SYDNEY. N.S.W. 2001.

Dear Justice Stewart,

I have received your letter of today's date relating to certain proceedings in the House of Representatives yesterday.

In effect you raised 2 particular matters with me - first the question of the possible appearance of Mr R.S. Hall, M.P. before the Royal Commission of Inquiry into the Activities of the Nugan Hand Group, and secondly the question of permission to obtain possession of a document tabled by Mr Hall in the House yesterday.

Should Mr Hall be invited to appear before the Royal Commission, and accept that invitation, his appearance in itself should not involve a matter of privilege. On the other hand, should Mr Hall not be prepared to accept such an invitation, the possible service of a subpoena on him to secure his attendance does raise issues of Parliamentary privilege.

Any service of process, or attempt at service of process, on Mr Hall in Parliament House Canberra on any day when the House is sitting, has sat or will sit would be capable of being pursued as a possible contempt of the House. Should a subpoena be served on Mr Hall when the House was not sitting or when he was not in Parliament House, Canberra, other questions could arise. A Member receiving a subpoena in such circumstances could claim exemption from attendance as a witness before the Royal Commission whilst the House was in session and possibly for a period before and after the session. Further, a Member may take the view that such service, or attempted service, of process on him in a matter connected with his service in the House was an attempt to harrass, intimidate or influence him in the performance of his duties as a Member.

COPY 97

In any event should a Member appear before the Royal Commission and matters connected with his participation in proceedings in the House arise, unquestionably the law, as established by Article 9 of the Bill of Rights would need to be observed. The Member could not, accordingly, be challenged, questioned, or cross-examined on his statements in the House or on his participation in other ways in proceedings in the House.

The second specific question that you raise is in relation to permission to obtain possession of a document tabled by Mr R.S. Hall yesterday. In my view the production of such a document for the purposes you outline, would require the permission of the House itself.

Accordingly, should you wish to pursue your request for permission to obtain possession of a copy of the tabled document would you please advise me so that I may inform the House of your request when sittings are resumed on 2 October 1984.

It would be inappropriate for me to comment on the other matters raised in your letter, and I do not propose to do so.

I propose to make copies of this letter available to Mr Hall, the Prime Minister and the Leader of the Opposition.

Yours sincerely,

H A Jones

SPEAKER

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PRIME MINISTER

CANBERRA

The Hon. Mr Justice D.G. Stewart
Commissioner
Royal Commission of Inquiry into the
Activities of the Nugan Hand Group
GPO Box 2528
SYDNEY NSW 2001

31 OCT 1984

Dear Judge

I refer to your letter to the Prime Minister dated 21 December 1983 in which you expressed concern at the apparent inadequacy of emergency arrangements at Westfield Towers at the time of a bomb threat. You recommended that a joint review of these arrangements, involving all relevant authorities and interests, be conducted.

You will recall that in an interim reply dated 3 February 1984, I advised you that an approach had been made to the New South Wales Government to resolve the matters raised in your letter. I am now able to advise you that a thorough review of emergency arrangements relating to Westfield Towers and other high-rise buildings has been completed. The review has been conducted by those primarily responsible for emergency arrangements, namely the New South Wales police and the building managers, in close consultation with the Premier's Department and other relevant New South Wales authorities, and with the Commonwealth through the Protective Services Co-ordination Centre and the Australian Federal Police.

I am advised that the review has resulted in the implementation of a general plan to provide a co-ordinated response to emergencies in any high-rise buildings. It is designed to protect life and property and to prevent and detect crime with minimal disruption to the normal usage of buildings and surrounding areas. The plan sets out the responsibilities of all organisations likely to have a role in an emergency, incorporating command and control arrangements, evacuation procedures, traffic control measures, and a liaison and communications system. The plan came into effect on 6 September 1984.

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As a supplement to the general plan a specific information folder has been prepared for Westfield Towers. The folder contains, inter alia, detailed information on the location of a building control centre, floor plans, lists of management, tenants and their staff, specific evacuation procedures, marshalling areas and traffic control arrangements. Copies of the information folder will be held at Darlinghurst Police Station (which would provide the initial response), the Police Emergency Operations Centre and by the managers of the building. The New South Wales Police intend to prepare similar supplementary folders for other high-rise buildings.

The arrangements appear to be comprehensive and should overcome the deficiencies you observed during the 12 December 1983 emergency evacuation. You may be interested to know that it is proposed to seek the co-operation of the other States to adopt similar emergency measures, through the Standing Advisory Committee on Commonwealth/State Co-operation for Protection Against Violence. Special attention will be sought for buildings which house Commonwealth offices, or diplomatic or consular offices for which the Commonwealth has responsibility. An examination is also proposed of Commonwealth-owned high-rise buildings.

I am sending a copy of this letter to the Premier of New South Wales for his information.

Your sincerely

LIONEL BOWEN

Lionel Bowen
Minister Assisting the Prime Minister

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84/73

DEPARTMENT OF THE SPECIAL MINISTER OF STATE

West Block, Canberra, A.C.T. 2600
Telephone: 70 2211

Protective Services
Coordination Centre
Locked Bag No 2
Queen Victoria Terrace
CANBERRA ACT 2600

26 October 1984

002046

Secretary
Department of the Prime Minister
and Cabinet
Edmund Barton Building
BARTON ACT 2600

Attention: Assistant Secretary
Law Enforcement Branch

STEWART ROYAL COMMISSION - SECURITY OF PREMISES

I refer to your letter on this subject dated 14 June 1984 seeking the views of this centre on the procedures for obtaining approval for the use of Defence personnel in emergency situations.

2. Our understanding of the events at Westfield Towers on 12 December 1984 and the Police and Army response to them is as described in the Department of Defence letter. An examination of the Defence reply and our recent involvement with the NSW authorities, Westfield Towers building management and the AFP in a review of emergency arrangements indicates two possible shortcomings that contributed to the delay in provision of Army assistance. These are, a lack of understanding by Police of the required procedures to obtain Army assistance in such circumstances; and a lack of flexibility in the application of the procedures described in the Defence letter.

3. We have been advised that the police requested the Army to gain access to the locked strongroom shortly after they first arrived on the scene. However, this request was made at the "operator" level and the Army officer present insisted that, in accordance with his instructions and in light of the particular circumstances of the incident, a formal request

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should be made by the appropriate senior police officer. Apparently this took some time to sort out and a long delay resulted.

4. The Defence requirement to refer requests that are not classed as being of "exceptional urgency" to Canberra led to the second long delay. Defence has provided reasons why this procedure was followed in this case. While their concern over possible damage to the building and resultant compensation claims is understandable, such situations are faced almost every day by the police and, as a consequence, they have well established procedures for seeking indemnities. An indemnity could have been arranged by the police with the minimum of delay.

5. The Defence view that a situation of exceptional urgency did not exist in this case may not be shared by the NSW Police and the Westfield Towers management and tenants. Delays in gaining access to the strongroom and in subsequently declaring the building safe resulted in a major and protracted disruption to traffic in one of Sydney's busiest streets. There were also financial implications arising from the lengthy evacuation of all tenants from the building. It could further be argued that until it was established that there was no bomb it could not be held that there was "no pressing danger to life".

6. In our view there is a need for Defence to re-examine their procedures for responding to such emergencies. The present arrangements appear to be over centralized and to build in delays in response by the need to refer requests to CDFS, except in two defined circumstances. There seems to be a case for delegating authority to approve such requests to local commanders, who in most cases, will be more familiar with all of the circumstances and consequences of the incident.

J.A. SHELDRICK
Brigadier
Head

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DEPARTMENT OF THE PRIME MINISTER AND CABINET

Minister Assisting the Prime Minister

STEWART ROYAL COMMISSION - SECURITY OF PREMISES

On 21 December 1983 Mr Justice Stewart wrote to the Prime Minister expressing concern about the security of the premises of his Royal Commission of Inquiry into the Activities of the Nugan Hand Group. The Commission's offices are in the Westfield Towers building, one floor above the Israeli Consulate-General. Mr Justice Stewart's letter was prompted by an incident on 12 December 1983 which led to the building's evacuation.

On 4 January 1984, the Prime Minister wrote to the Special Minister of State asking him to look into the matters raised by Mr Justice Stewart and to provide a report.

On 3 February 1984, you provided Mr Justice Stewart with an interim reply which noted that action was being taken by the Standing Advisory Committee on Commonwealth/State Co-operation for Protection Against Violence to enhance the national capability to respond to bombing incidents. With regard specifically to Westfield Towers you informed Mr Justice Stewart that arrangements were being made for resolving the matter of security.

Since then, the Protective Services Co-ordination Centre has in consultation with the relevant authorities, conducted a review of emergency arrangements for Westfield Towers and prepared a folder of emergency procedures. In addition a general plan for co-ordinated responses to emergencies for use in all high rise buildings in New South Wales has been developed. It is hoped that with the co-operation of other States similar emergency measures can be adopted.

The attached draft letter to Mr Justice Stewart, is recommended for your signature. Because of the involvement of the New South Wales Government it is further recommended that a copy be sent to the Premier, Mr Wran.

AK Berendsen

A.K. Berendsen
Acting Assistant Secretary
Law Enforcement Branch

22 October 1984

DEPARTMENT OF THE PRIME MINISTER AND CABINET

Minister Assisting the Prime Minister

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A.K. Berendsen
Acting Assistant Secretary
Law Enforcement Branch

22 October 1984

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PRIME MINISTER

CANBERRA

The Hon. Mr Justice D.G. Stewart
Commissioner
Royal Commission of Inquiry into the
Activities of the Nugan Hand Group
GPO Box 2528
SYDNEY NSW 2001

31 OCT 1984

Dear Judge

I refer to your letter to the Prime Minister dated 21 December 1983 in which you expressed concern at the apparent inadequacy of emergency arrangements at Westfield Towers at the time of a bomb threat. You recommended that a joint review of these arrangements, involving all relevant authorities and interests, be conducted.

You will recall that in an interim reply dated 3 February 1984, I advised you that an approach had been made to the New South Wales Government to resolve the matters raised in your letter. I am now able to advise you that a thorough review of emergency arrangements relating to Westfield Towers and other high-rise buildings has been completed. The review has been conducted by those primarily responsible for emergency arrangements, namely the New South Wales police and the building managers, in close consultation with the Premier's Department and other relevant New South Wales authorities, and with the Commonwealth through the Protective Services Co-ordination Centre and the Australian Federal Police.

I am advised that the review has resulted in the implementation of a general plan to provide a co-ordinated response to emergencies in any high-rise buildings. It is designed to protect life and property and to prevent and detect crime with minimal disruption to the normal usage of buildings and surrounding areas. The plan sets out the responsibilities of all organisations likely to have a role in an emergency, incorporating command and control arrangements, evacuation procedures, traffic control measures, and a liaison and communications system. The plan came into effect on 6 September 1984.

.../2

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The arrangements appear to be comprehensive and should overcome the deficiencies you observed during the 12 December 1983 emergency evacuation. You may be interested to know that it is proposed to seek the co-operation of the other States to adopt similar emergency measures, through the Standing Advisory Committee on Commonwealth/State Co-operation for Protection Against Violence. Special attention will be sought for buildings which house Commonwealth offices, or diplomatic or consular offices for which the Commonwealth has responsibility. An examination is also proposed of Commonwealth-owned high-rise buildings.

I am sending a copy of this letter to the Premier of New South Wales for his information.

Your sincerely

LIONEL BOWEN

Lionel Bowen
Minister Assisting the Prime Minister

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SPECIAL MINISTER OF STATE
LEADER OF THE HOUSE

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OFFICE OF THE PRIME MINISTER CANBERRA

10 OCT 1984

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The Hon R.J.L. Hawke, AC, MP
Prime Minister
Parliament House
CANBERRA ACT 2600

Dear Prime Minister

I refer to your letter of 4 January 1984 in which you asked me to look into matters raised by Mr Justice Stewart concerning security arrangements in Westfield Towers, Sydney, where the offices of the Royal Commission of Inquiry into the Activities of the Nugan Hand Group are located. The building is privately owned, with substantial Commonwealth occupancy. It also accommodates the Israeli and three other Consulates.

As you may recall, the Israeli Consulate was the target of a bomb explosion in December 1982 and the scene of a suspect bomb incident on 12 December 1983 which resulted in the evacuation of the building. The Royal Commissioner was concerned at the apparent lack of emergency procedures and coordination of the evacuation. He recommended that a joint review of emergency arrangements for the Westfield Towers building, involving all relevant authorities and interests, be conducted.

As it was clear that the matters raised by Mr Justice Stewart would involve lengthy discussions with the New South Wales Government and other involved parties, an interim reply was sent by the Acting Prime Minister to the Royal Commissioner on 3 February 1984, advising him of the steps that were to be taken.

The joint review has now been completed and is reported upon in the attached draft letter which you may consider appropriate to send to Mr Justice Stewart with a copy to Mr Wran for his information.

ORIGINAL TO AS-LAW ENF
COPIED TO FAS-JUSTICE

CONFIDENTIAL

Parliament House, Canberra, ACT, 2600 Tel: (062) 733666

The draft letter advised that a general plan for all high rise buildings with a supplementary plan for Westfield Towers has been put into effect from 6 September 1984. I am advised that the arrangements provided in these plans are comprehensive, covering all the requirements necessary for handling emergencies in this type of building including orderly evacuation.

To encourage the wider development of these arrangements, other governments and police forces are being advised, through the Standing Advisory Committee on Commonwealth/State Cooperation for Protection Against Violence, or the adoption by New South Wales of these measures. Other governments will be asked to consider the development of similar arrangements for high rise buildings in which Commonwealth offices or diplomatic and consular representatives are housed.

These developments are being reported to the Department of Administrative Services which has responsibility for high rise buildings owned by the Commonwealth.

Yours sincerely

(MICK YOUNG)

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SPECIAL MINISTER OF STATE
LEADER OF THE HOUSE

86

10 OCT 1984

The Hon R.J.L. Hawke, AC, MP
Prime Minister
Parliament House
CANBERRA ACT 2600

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CONFIDENTIAL

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Yours sincerely

(SGD. MICK YOUNG)

(MICK YOUNG)

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85

PRIME MINISTER

CANBERRA

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Commissioner
Royal Commission of Inquiry into the
Activities of the Nugan Hand Group
GPO Box 2528
SYDNEY NSW 2001

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CONFIDENTIAL

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The arrangements appear to be comprehensive and should overcome the deficiencies you observed during the 12 December 1983 emergency evacuation.

May I thank you for bringing this matter to my attention. You may be interested to know that it is proposed to seek the cooperation of the other States to adopt similar emergency measures, through the forum of the Standing Advisory Committee on Commonwealth/State Cooperation for Protection Against Violence. Special attention will be sought for buildings which house Commonwealth or diplomatic/consular offices for which the Commonwealth has responsibility. An examination is also proposed of Commonwealth owned high rise buildings.

I am sending a copy of this letter to the Premier of New South Wales for his information.

Yours sincerely

R.J.L. HAWKE

House of Reps. Notice Paper.

higher levels of total hardness, magnesium, chloride, total solids or lower alkalinity.

(2) Has his attention been drawn to cases quoted by Sir Edward Dunlop, at a Melbourne Town Hall meeting on 4 June 1975, of skeletal fluorosis with crippling with natural fluoride levels ranging from 1.2 to 14 ppm mostly after 40 years' exposure, worsened by kidney disease; if so, is it a fact that (a) the water supply is not a good medium for delivery of a precise dose of medication, (b) flurodation distracts attention from the basic causes of tooth decay and (c) a review of its use may have been better done at the time, as advised by Sir Edward Dunlop.

(3) What advance has been made in investigations ordered by me, when Minister for Health, of proposals to use fluoridated milk, as in Liverpool, England, and Switzerland, as an option, at no extra cost, to allow better control of fluoride intake in non-fluoridated parts of Australia.

(4) Has the evidence for increased cancer mortality in fluoridated areas covered presumed latent periods of 20 years or more and refuted evidence covering shorter periods.

1861 **DR EVERINGHAM:** To ask the Minister for Health—

(1) How many corneal transplants were performed at Canberra hospitals since 1973.

(2) Which surgeons performed these operations.

(3) Which doctors, hospitals and/or sources provided the transplanted material.

(4) What donor or consent documents are available to establish that the transplant tissue was legally obtained in each case.

(5) What representations have been made (a) to his Department and (b) to Ministers for Health since 1973 for the provision of legal eye bank facilities.

1862 **DR KLUGMAN:** To ask the Special Minister of State—Has his attention been drawn to a letter from Mr Justice Stewart to the Speaker, dated 18 September 1984, and tabled in the House on 2 October 1984; if so, is he able to say which are the organisations mentioned as having access to the data base of the Royal Commission of Inquiry into the activities of the Nugan Hand Group.

1863 **MR HUNT:** To ask the Minister for Trade—

(1) Has the newly-created position of Principal Advisor, Business/Union Consultations, in his Department been re-advertised; if so, (a) what is the closing date of applications for the position and (b) why was this decision taken.

(2) Has Mr Ted Wilshire been required to re-submit his application for this position; if so, has he done so.

(3) Was an objection lodged by one of the members of the original interviewing panel to the Chairman of the Public Service Board; if so, was the objection made in writing and on what grounds was the objection lodged.

(4) What were the precedents for the variation of the earlier panel which interviewed Mr Wilshire to include representatives of the ACTU and MTIA.

(5) If the position has been re-advertised, and if Mr Wilshire is an applicant, will the interviewing panel again be varied in this way.

(6) How many other variations of interviewing panels to include a representative of the ACTU have been made since he became Minister for Trade.

MR MILTON: To ask the Ministers listed below (questions Nos. 1864-1866)—

(1) How many employees were (a) employed in the Minister's Department during (i) 1981-82, (ii) 1982-83 and (iii) 1983-84 and (b) additions to the total number of staff employed in each of these years.

(2) What are the estimated numbers for 1984-85.

Tuesday, 2 October 1984

Mr SPEAKER (Hon. Harry Jenkins) took the chair at 2 p.m., and read prayers.

ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN HAND GROUP

Mr SPEAKER—I have received a request from Mr Justice Stewart, Commissioner of the Royal Commission of Inquiry into the Activities of the Nugan Hand Group, in which he seeks permission of the House for the Royal Commission to have possession of the telex tabled in the House on 12 September 1984 by the honourable member for Boothby (Mr Steele Hall). In doing so Mr Justice Stewart has stressed the seriousness attaching to the alleged leaking of the document and has indicated that possession of it is desired for the purposes of the Commission's inquiries in relation to its unauthorised release. On receipt of Mr Justice Stewart's request, I advised the honourable member for Boothby, the Prime Minister (Mr Hawke) and the Leader of the Opposition (Mr Peacock) and informed them that I intended to bring the matter to the attention of the House. On previous occasions the House has agreed to the use of its records in proceedings before other tribunals. This request is similar in nature to that on 25 March 1982 when the House granted leave for the Royal Commission of Inquiry into Drug Trafficking to be provided with copies of, and to adduce, any documents presented in the House concerning matters that may be relevant to the inquiry. I bring Mr Justice Stewart's request to the attention of the House so that it may take any action it considers appropriate.

Motion (by **Mr Young**)—by leave—agreed to:

That this House requests Mr Speaker to table a copy of the correspondence relating to the request by Mr Justice Stewart of the Royal Commission of Inquiry into the Activities of the Nugan Hand Group for a copy of the telex tabled in the House on 12 September 1984 by the honourable member for Boothby.

Mr SPEAKER—As requested by the House, I now table a copy of the correspondence relating to the request by Mr Justice Stewart of the Royal Commission of Inquiry into the Activities of the Nugan Hand Group for a copy of the telex tabled in the House on 12 September 1984 by the honourable member for Boothby.

Mr YOUNG (Port Adelaide—Leader of the House) (2.04)—by leave—I move:

That this House grants leave for the Royal Commission of Inquiry into the Activities of the Nugan Hand Group to be provided with a copy of the telex tabled in the House on 12 September 1984 by the honourable member for Boothby.

Because there has been some confusion over the years, I think it would be opportune for me to draw attention to the facts concerning the provision of property of this Parliament to the courts or to royal commissions. I shall refer very quickly to instances when previous governments and, indeed, this Government have dealt with requests similar to the one under discussion today.

I refer, of course, to 25 March 1982 when the then Leader of the Opposition, Mr Hayden, sought the tabling of documents relating to the Nugan Hand organisation and associated matters. The then Leader of the House, Mr Sinclair, on behalf of the Government, moved:

That this House grants leave for the Royal Commission of Inquiry into Drug Trafficking to be provided with copies of, and to adduce, any documents presented in the House concerning matters that may be relevant to the Inquiry.

I think we have a similar case today. I am citing these previous examples because I think anyone wanting a quick reference in the future will be able to see them all in the one day's proceedings. On another occasion, 4 June 1976, in relation to documents relevant to court proceedings, the then Leader of the House, again Mr Sinclair, moved:

That, in response to the petition of Danny Sankey presented to the House on 25 February 1976, this House grants leave—

1. to the Petitioner and his legal representatives to inspect the documents tabled in this House during the course of its proceedings which took place between 2.55 p.m. and 10.09 p.m. on 9 July 1975.
2. to the Petitioner and his legal representatives to issue and serve a subpoena for the production of the said documents in the proceedings commenced by the Petitioner in the Queanbeyan Court on or about 20 November 1975, and
3. to an appropriate officer of the House to attend at the hearings of the said proceedings and to produce the said documents.

This, of course, is in accordance with what we are doing today. The *Hansard* was required for court proceedings. On 30 August 1979 leave of the House was sought for the production of documents and attendance of officers at court proceedings. Mr Sinclair, as Leader of the House, sought leave of the House to move a motion granting leave for the production and adduction as evidence of certain documents and the attendance of an appropriate officer of the House for court proceedings. There was some debate about this matter because the honourable member for Kingsford-Smith (Mr Lionel Bowen) was opposed to this course of action. Eventually there

was agreement as to what material would be sent to the court and about the officer appearing before it. On 30 August 1979 Mr Sinclair raised a matter of privilege in accordance with Standing Order 95. Following discussion in the House, he moved:

That the petition of John Fairfax and Sons Limited presented to the House on 28 August 1979 be referred to the Committee of Privileges for consideration and advice as to whether the petition in whole or in part or any matter raised by it can be acceded to without derogation of the privileges of the Parliament or the Members of the Parliament and if so, the form in which it might be so acceded to.

In some cases these matters have gone via the Privileges Committee. On 18 March 1982 the then Leader of the House, Mr Sinclair, in regard to access to House records, moved:

That this House grants leave for the Royal Commission of Inquiry into Drug Trafficking to adduce the official records of the proceedings in the House in which references were made to matters relevant to the inquiry, namely, parliamentary debates, House of Representatives for—

(a) 11 March 1982, pages 890 to 891, 893 to 894, 921 to 927 inclusive;

(b) 16 March 1982, pages 959, 960, 967 to 976 inclusive and pages 976 to 988 inclusive; and

(c) 18 March 1982.

This series of examples is evidence of the fact that what we are doing today is not peculiar to the way in which the Parliament has acted previously. Finally, on 6 May 1982, in regard to records of the Parliament, Mr Sinclair moved:

That, in response to the petition of MacPhillamy Cummins and Gibson presented to the House on 5 May 1982, this House grants leave—

(1) to the Petitioner and to Mr Christopher John Hurford to issue and serve subpoenae for the production of the relevant official records of the proceedings of the House as described in the Second Schedule of the petition, and of relevant documents tabled in the House as described in the Third Schedule of the petition;

(2) to the Petitioner and to Mr Christopher John Hurford to adduce the said official records of the proceedings as evidence of what was in fact said, and of the presentation of the said documents, in the House;

(3) to the Petitioner and to Mr Christopher John Hurford to interview and obtain proofs of the evidence from the relevant officers of the Parliamentary Reporting Staff, and

(4) to an appropriate officer or officers of the House to attend in Court and to produce the said official records of proceedings and to give evidence in relation to the recording of proceedings of the tabling of documents provided that such officer or officers shall not be required to attend at any time which would prevent the performance of their duties in the Parliament.

In directing the attention of the House to those previous decisions by the House I suggest that what we have done today draws this matter into line with those previous decisions.

Mr STEELE HALL (Boothby) (2.11)—I would like to speak briefly to this motion. Mr Speaker, I do so by reading from a letter which I sent to you today. I am not sure whether you have had time to read that letter yet. It reads:

Dear Mr Speaker,

I acknowledge your letters of 17th September and 25th September 1984 which outline part of the matters which Mr Justice Stewart raised with you in relation to my tabling of a document on the 12th September 1984.

I note your response to Mr Justice Stewart in which you set out my position in relation to the privilege of the House.

I have no objection to the House making the document available to the Royal Commissioner and will support such a proposal adopted in the terms you have outlined.

Mr Speaker, in referring to the terms you have outlined, I would like particularly to quote from your letter to me, if I may. You referred to the availability of the document in these terms:

However, in granting such approval the Speaker has always ensured that the matter did not involve any question of privilege, especially that of a Member, and he has also drawn attention to the provisions of Article 9 of the Bill of Rights.

Question resolved in the affirmative.

Mr SPEAKER—I shall convey to Mr Justice Stewart the terms of the resolution agreed to by the House and provide him with a copy of the telex tabled in the House on 12 September 1984 by the honourable member for Boothby. In doing so I shall also draw his attention to the provisions of Article 9 of the Bill of Rights as applied by section 49 of the Constitution for the purpose of ensuring that proper regard is had to the privileges of members of this House.

ROYAL COMMISSION OF INQUIRY INTO THE NUGAN HAND GROUP

Mr KEATING (Blaxland—Treasurer)—by leave—Three weeks ago the honourable member for Boothby (Mr Steele Hall) asked of me in the House a question which had monstrous implications and was vile in its innuendo. Its only effect could have been to smear me. The question implied that I would consider receiving an unspecified offer from the Nugan Hand Bank—an offer that could only have carried an implication of money from one of the most notorious organisations in the country. Mr Speaker, in the papers which you have just presented, which I have just had a chance to see, Mr Justice Stewart indicates that there are attachments. I think the

House should be aware of the attachments. I will read from some of them. One attachment states:

> At the seminar Investing in Australia, organised by the Australian Overseas Chinese Club on September 21 at the Hong Kong Convention Centre I am able to be one of the speakers. Proposed title of my address is . . .

It turns out, when looking at these telexes which are attached, including one telex to me, that the offer that I was to receive was an offer to speak at a seminar in Hong Kong. It was not an offer of any other proportions. It is further stated:

> By the way, Billy McMahon has been officially invited. He has not yet answered.

It continues:

> Please advise me as soon as possible——

Mr Peacock—Ha, ha!

Mr KEATING—The Leader of the Opposition might well laugh. He has no respect for anybody's reputation. The attachment continues:

> Please advise me as soon as possible of the situation re proposal have Nigel Bowen visit Hong Kong on September 21 as a guest of the sponsors of the Australian Overseas Chinese Club for the seminar on Investment in Australia.

It mentions also the telex, a copy of which the honourable member for Boothby had last week, which states:

> Organisers advise that Labor members might be too controversial and Liberal members may take too long to obtain an answer on whether they would accept . . . have been requested last year regarding former Premiers, i.e., Gorton, McMahon, Sir Robert Askin and former Premiers as first choices, former immigration Minister also good. Obviously present one would be best in view of self-owned problem. Being a holiday in Hong Kong, please treat this as urgent. Many thanks.

It continues:

> We are sorry we cannot contact Mr McMahon. We do not have an address for him.

What this reveals is that the offer I am supposed to have received, or supposed to have had proposed to me, was an offer to speak to a seminar in Hong Kong about investing in Australia. One would have to take the view that the honourable member for Boothby knew that that was the context in which the telex that came into his possession was available to him. His attack is revealed for what it is—a smear of the worst proportions, the lowest form of political attack, a smear on an honest opponent who was in a position where he could not defend himself, as I was unable to do when I was asked the question a week ago because I had no knowledge of it.

Let me make this clear: The most damning thing about this is that there was never any offer with the implication of money. That is revealed by Mr Justice Stewart. The other damning factor is that the Leader of the Opposition (Mr Peacock), the Deputy Leader of the Opposition, the honourable member for Bennelong (Mr Howard), and the Leader of the National Party (Mr Sinclair), as accomplices and in conspiracy with the honourable member for Boothby, sat on the Opposition tactics committee and would have planned this question knowing the context of these telexes and knowing that this was all an offer in Hong Kong. Honourable members will recall that there was never a second reference to it. We never heard any more about it. It was a one-throw smear. The Opposition knew that this smear had only one throw in it and that it could never be followed up because to follow it up would reveal it for what it was—simply an attack to discredit me on the basis of receiving an offer, presumably for money, from an outfit like the Nugan Hand organisation. That is the basis of the attack upon me. That is the basis of the question. I am not at all surprised that the honourable member for Boothby, who has no obvious morality, who has been in every party in the Parliament——

Mr SPEAKER—Order! I think the Treasurer should withdraw that description.

Mr KEATING—I withdraw, Mr Speaker. He knew when he asked the question that he was maligning me in a serious way. This was attended to substantially in the newspapers. It was part of an organised campaign of vilification not only against me, but also against other members of the Government.

In the preceding two weeks, three smears were made against me. The first was that I sought to terminate the inquiries of the Costigan Royal Commission on the Activities of the Federated Ship Painters and Dockers Union with an intervention in Cabinet. I did not make such an intervention, and the Prime Minister (Mr Hawke) made it clear in the Caucus that at no stage did I ever make such an intervention. The second was that I attempted to nobble and suppress the Gyles report; but then I published to the House the indications Mr Gyles volunteered that no pressure was ever exercised on the Government, despite the fact that the Leader of the Opposition attempted, by a manufactured smear and charge, to say that I sought to suppress his report. The third element in the two weeks of smears was that I was associated with the Nugan Hand organisation.

All three smears had no basis. I made no such intervention in the Cabinet about Costigan and, to my knowledge, neither did anybody else. That smear made the front page of the *Sydney*

Morning Herald. It led the Australian Broadcasting Corporation news. That is the sort of cover that these smears were given in the last couple of weeks of the last sitting. The second smear was that I sought to suppress the Gyles report. In fact, the Gyles report was a damning, stinging indictment of the former Government. I at no stage approached Mr Gyles and he said so. He volunteered it to the Attorney-General's Department, which passed it on to the Commissioner of Taxation, who passed it on to me, and I passed it on to the Parliament. The third smear was that I was supposed to have received an offer from the Nugan Hand bank on the basis that in some way I would consider a financial arrangement with it. In fact it has now been revealed that it was an offer to have a trip to Hong Kong. That is the basis of the matter.

I have had no apology on any count—not on the first count; not on the second count, after Gyles revealed that no pressure had been put on him; and no doubt I will receive no apology on this either. We have had a whole series of smears, which have been raised by members of the Opposition because they have no policies and no approach to the Australian community or the Australian economy or any other feature of Government responsibilities.

The last smear concerning the Nugan Hand organisation also received a tremendous run in the Press. We are seeing in Australia in 1984 what we saw in the United States in the 1950s that is, all smears have the same basic feature—an allegation linked with associations which are then trafficked in the Press, as indeed they were trafficked in the Press of the United States in the 1950s.

I make it quite clear that I have no knowledge whatsoever of any approach from the Nugan Hand organisation, as I said a couple of weeks ago in the House. This campaign of vilification is not the worst of the smears and the vilifications. There is also the charge against Peter Barron that he tried to suppress a report in the *Age* relating to material between a High Court judge and Miss Junie Morosi. We saw the outrageous charge, again from that highly principled honourable member for Boothby, that there was evidence, corroborated twice, that Peter Barron put pressure on the Editor of the *Age* newspaper and sought to have him suppress that report. Let me read how that smear was dealt with by Mr Creighton Burns, the Editor of the *Age*. He said:

> Mr Peter Barron, Principal Adviser to the Prime Minister, came to see me last Thursday at his request. He did not lobby me about anything. He did not mention a High Court Judge or Ms Junie Morosi or anything to do with a safe deposit box in a Swiss bank or any other bank. He did not ask me to suppress any story or to publish any story. In fact, he did not ask me to do anything and he certainly did not threaten me.

It becomes obvious that that particular charge, that particular smear, also fell to the ground. But did we hear from the honourable member for Boothby? Did he have the decency to recant? Did he have the decency to withdraw it? No. He came back into the House that evening and repeated it by saying that it was corroborated by two separate sources. The only two people there were Mr Barron and the Editor of the *Age*. Yet the honourable member said that it was corroborated by two sources; and that was repeated by the Leader of the Opposition on the same night on the *Nationwide* program. He was not recanting either. After Mr Creighton Burns had denied the story, the Leader of the Opposition, in true character, went on to say that it had been corroborated by two sources.

Of course, reputations do not matter to the Leader of the Opposition and his cohorts. The most vile of all the slurs and innuendoes were those projected to the Prime Minister, those thrown at the Prime Minister, that he was 'a perverter of the law and one who associates with criminals and takes his orders from those who direct criminals'. The Leader of the Opposition will stop at nothing. Three charges against me fall to the ground absolutely no withdrawals, no apologies. The charge by the honourable member for Boothby against Peter Barron of the Prime Minister's staff also falls as malicious and without any evidence. The most vicious attack is that on the Prime Minister—that the Prime Minister of this country would allow himself to be directed by criminals. Nobody who has ever sat in this Parliament has heard a graver charge than that the Prime Minister of this country is directed by criminals. I have sat here for 15 years. I have never heard a graver charge than that, and I am sure that nobody in parliaments would ever have heard a graver charge than that the Prime Minister was directed by criminals.

Mr Donald Cameron—Mr Speaker, I take a point of order.

Mr KEATING—This was not simply a charge——

Mr SPEAKER—Order! I call the honourable member for Moreton on a point of order.

Mr Donald Cameron—He has another ream of notes there, and I am just wondering how long we are going to have to put up with this.

Government members interjecting-

Mr SPEAKER—Order! I assure the House that I can answer that without any assistance

from honourable members on my right. The honourable member for Moreton needs to be reminded that the Treasurer is speaking by leave.

Mr KEATING—The charge against the Prime Minister was not a charge made only in the heat of battle, although things are said in this Parliament in the heat of battle which are often regretted later. The fact is that it was repeated in the calm and cool of a television interview on *Nationwide*. I sat in the same studio not 15 feet from the Leader of the Opposition.

Mr Howard—You weren't very calm.

Mr KEATING—I wiped out the honourable member though; I fixed him up. Let me make this fact: It was repeated in the calm of a television interview three hours after it was said in the House. Let me quote *Nationwide*. Richard Carleton asked Mr Peacock: 'Can you name one criminal that Mr Hawke is associated with?'. Mr Peacock answered: 'Yes, I can'. He nods again, approving. He said: 'Yes, I can, but for your protection as well as mine here I would rather not, but I can do that'. In other words, his only quibble is the question of privilege and the protection of the publishers, the Australian Broadcasting Corporation. He said: 'Yes, I can'. That is the gravity of his charge. It was not made in the heat of some debate. He slunk away with his tail between his legs. The next day the Deputy Leader of the Opposition (Mr Howard) and the Leader of the National Party of Australia put their heads into a cabal with him and then he said: 'Look, Keating said this a couple of years ago and somebody else said this a couple of years ago and therefore I am exonerated'. The Leader of the Opposition said this in the calm of a television interview. It was a calculated, cool attack upon the Prime Minister of this country alleging that he consorts with, is directed by and is associated with criminals.

The Leader of the Opposition now has his chance. The Parliament is back in session. He has the privilege accorded to a member of the House of Representatives. He does not have to worry about a defamation published by the ABC. He does not have to worry about the proprieties and therefore the problems of the law of defamation. He said that he could name one criminal that Mr Hawke is associated with but he would rather not say it on *Nationwide*. He said: 'I know of associations which Mr Hawke has had'. This is the chance for him in this session to substantiate his monstrous allegation, an allegation which demands only two courses of action—complete and utter retraction or total substantiation. The only courses available to the Leader of the Opposition are total retraction or complete substantiation.

Mr Speaker, what we are seeing in this country and what was revealed by your intervention this afternoon is the politics of desperation by the Opposition. It is a party with no policies and no ideas. I have just come back from the United States of America. The Opposition is a joke in the investment community of that country. Everywhere I went, I was asked: 'How come they messed up a country like yours? How come they could not make a country so endowed as it was run? How come Peacock has degenerated into being a smear merchant without ideas? We thought he had promise as Foreign Minister'. This is the way in which the Opposition is viewed abroad. It has no ideas about the economy, about social policy. The Leader of the Opposition has gone for the smear and the vile charges.

Let me conclude on the following points: The three charges against me—that I tried to terminate Costigan, that I suppressed Gyles and that I had financial associations or potential financial associations with the Nugan Hand Bank—are false and vile insinuations. The charge against Peter Barron was totally without foundation and was denied by the Editor of the Age without a retraction or any decency by the Opposition. But, of course, the final, the most vile and the most monstrous of the insinuations is that the Prime Minister consorted with, was directed by and was associated with criminals. This country sits and waits in judgment on the Leader of the Opposition. He must either retreat like a man or substantiate the vile charges he has made under the protection of privilege. He has been running away from his charges, his own actions, for a fortnight. This is the Leader of the Opposition's chance to put up or shut up, to stand up and say who the criminals are that the Prime Minister is associated with, to tell us how he has been directed by criminals, to tell us about Mr Peter Barron and to tell us about others. He should stand up and deliver. This is his chance to stand up and say his piece. He should either put up or shut up.

SUSPENSION OF STANDING ORDERS

Motion (by **Mr Young**) proposed:

That so much of the Standing Orders be suspended as would prevent the Leader of the Opposition making a statement to the House and speaking for a period not exceeding 30 minutes.

Mr SPEAKER—The question is that the motion be agreed to. All those of that opinion say aye, to the contrary no—

Mr Sinclair—No.

Mr Hawke—Your coach said no. Oh, what a team.

Mr SPEAKER—I think the ayes——

Honourable members interjecting—

Mr SPEAKER—Order! I will put the question again. All those of that opinion say aye, to the contrary no. I think the ayes have it.

PRIME MINISTER

Motion of Censure

Mr PEACOCK (Kooyong—Leader of the Opposition) (2.31)—I will take the opportunity in the time that has been given to me today to move a censure motion against the Prime Minister (Mr Hawke). I move:

That this House censures the Prime Minister for—

(1) His systematic and deliberate actions to force the Costigan Royal Commission to cease investigations into major crimes, despite requests from Commissioner Costigan and the Victorian Premier;

(2) His sytematic and deliberate refusal to support a strong National Crime Authority despite widespread evidence that this would weaken the fight against organised crime;

(3) His continued refusal to answer questions on his systematic and deliberate attempts to weaken investigation into organised crime, and

(4) His continued refusal to institute an effective investigation into the whole substance of the *Age* tapes.

I am pleased that time has been made available to me in order that I may move this motion. I am more than pleased that it has happened while the Prime Minister is in the Parliament because week after week, whenever accusations are made against this man, he scuttles from the Parliament as fast as he can. I am not going to wait until later when I could move this motion and make a separate speech because on that occasion, once again, I am sure this creature would scuttle from the House again. As he has given me the time to speak I assume that on one occasion he will wait.

Time and again the Opposition here and elsewhere has made accusations against this Government and, indeed, against its cohorts in New South Wales. Time and again criticism was made against Humphreys. What happened to him? He was convicted. Allegations were made against Farquhar and there were denials. What happened to him? He was charged. Allegations against Jackson were made here. What happened to him? First of all there were denials but he resigned and was charged. What happened to Foord? He was stood down. There were police scandals about Allen and Wood. There are now serious allegations about police involvement in the heroin trade. That is the New South Wales branch of the Australian Labor Party on which allegation after allegation has been made and that is the power base of this man who currently occupies the position of Prime Minister.

Over two weeks ago we raised in this House serious allegations that this Prime Minister was indulging in a deliberate and systematic weakening of the fight against sophisticated and organised crime in this country. The fact is that the Prime Minister has not made any serious attempt to answer these detailed allegations.

Just as with the allegations to which I have referred—time and again they were denied, and then time and again action was taken against people—the same pattern is emerging with this man; except that the denials are not always too forthright and unequivocal. They are obscured by a variety of means. For the past 10 days this man has engaged in a deliberate campaign to obscure and to confuse the debate about organised crime and the debate about the central issues behind it. Despite the Prime Minister's tactics, the essential facts will not evaporate in a mist of pleas or of sentiment or emotion. The charges are still before him. It is not just that the Prime Minister is weak on crime; that is obvious enough. We are alleging that this Prime Minister is involved in a deliberate and systematic weakening of the fight against organised crime, which has had the effect of curtailing and weakening the investigation of serious crimes, to Australia's obvious detriment.

This is not just a fight between two political parties or two major participants in that political debate; this is a debate about the increasing strength of organised crime in this community and the fact that the Prime Minister is refusing to allow the matter to be investigated in full, and he does not even debate it in this Parliament. In something as important as the fight against organised crime and corruption, neither rhetoric nor emotion can ever be a substitute for the facts, the deeds and the actions.

Mr Barry Jones—Where are the facts? Why not give us some?

Mr PEACOCK—What can be the Prime Minister's reasons for doing what he has done? Let us examine what could be the reasons for this Prime Minister doing what he has done.

Mr Barry Jones—No, why not give us the facts?

Mr PEACOCK—His actions have effectively and prematurely stopped Costigan's investigations. If you like, that is fact one. I will give two critical facts, if you like, and I have substantiated them.

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ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN HAND GROUP

Commissioner: The Hon. Mr. Justice D. G. Stewart
Secretary: Mr. G. R. Linnane

G.P.O. Box 2528
Sydney N.S.W. 2001
Australia

Telephone: (02) 358 2488

13 September 1984

Dear Dr Jenkins,

On 12 September 1984 in the House of Representatives, the Member for Boothby, Mr R. Steele Hall directed a question without notice to the Treasurer, the Hon. P.J. Keating, in the following terms:

> "I draw the attention of the Treasurer to a document purporting to be a copy of the text of a telex message in the possession of the Stewart Royal Commission of Inquiry into Drug Trafficking."

Mr Steele Hall then quoted from the document to which he was referring and, after leave was granted, tabled the document concerned.

This statement has caused me grave concern. One inference that could be drawn from it is that the document in question was "leaked" from this Commission and I am presently considering what action, if any, I should take in this regard.

My purpose in writing to you as Speaker is to raise the following matters. First, should I decide it is necessary to call Mr Steele Hall before the Commission for the purpose of asking him where he obtained the document, such a course may well raise a question of Parliamentary privilege and I thought it proper to seek your guidance on that aspect at this stage. Second, I seek, through you, the permission of the House to obtain possession of the tabled document so that I might be better placed to decide what is the proper course for me to take in relation to it.

My further purpose in writing to you, as Speaker, is to bring to your attention that the apparent circumstances concerning the release of the document may amount to contempt of this Commission by a person or persons as yet unidentified. I say this because there appears to have been an unauthorised release of a Commission document (being a printout of information obtained by the Commission in the course of its inquiries and placed in a computer data bank). In addition (as will appear from the next paragraph) a reading of the tabled document in isolation and without reference to other Commission documents relevant to it may tend to place on the tabled document a construction it would not otherwise bear. These matters might be seen to interfere with the proper course of the Commission's inquiry and thus constitute a contempt. I wish to emphasise that I am not suggesting that Mr Steele Hall is in contempt of the Commission by tabling the document.

It is in this context that I am enclosing for your information the following documents:

- copy telex HXNO 235 of 24.8.78
  (this being a telex from Mr Collings, then in charge of the Nugan Hand Hong Kong office, to Mr F.J. Nugan)

- copy telex No. 544 of 25.8.78
  (this being a telex from Mr F.J. Nugan to Mr Collings)

- copy telex HXNO 237 of 25.8.78
  (this being a telex from Mr Collings to Mr F.J. Nugan)

- copy telex No. 546 of 25 Aug 78
  (this being a telex from Mr F.J.Nugan's then secretary to Mr Collings)

- copy telex No. 239 of 30.8.78
  (this being a telex from Mr Collings to Mr F.J. Nugan)

- copy telex No. 568 of 13 Sept 78
  (this being a telex from a Nugan Hand executive in the Sydney office to Mr Collings)

When the document tabled by Mr Steele Hall is read together with these copy documents the circumstances which gave rise to the creation of the tabled document seem to me to be made clear.

Yours sincerely,

D.J. Stewart

Mr Justice Stewart

The Hon. Dr H.A. Jenkins, M.P.,
Speaker of the House of Representatives,
Speaker's Office,
Parliament House,
CANBERRA ACT 2600

TELEX TELEX TEL

NUHAN AA27127
83499 NUGAN HXNO 235

24.8.73

ATTN: FJN

PLEASE ADVISE ME ASAP THE SITUATION RE PROPOSAL TO HAVE NIGEL BOWEN VISIT HK ON SEPTEMBER 21, AS GUEST OF THE SPONSORS (AUSTRALIAN OVERSEAS CHINESE CLUB) FOR THE SEMINARS ON 'INVESTMENTS IN AUSTRALIA'.

REGARDS

LES

NUHAN AA27127V

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25 AUG 78 NO. 544

FOR LES COLLINGS
REYRTLX 235

ADVISE FOLLOWING FEDERAL LABOR POLITICIAN WLD ACCEPT OFFER

THE HON. PAUL J KEATING, MHR
4TH FLOOR
COMPASS HOUSE
NORTH TERRACE
BANKSTOWN NSW 2220

KEATING IS SHADOW MINISTER FOR MINERALS AND ENERGY.

IN WHITLAM GOVT WAS MINISTER FORTH NORTHERN AUSTRALIA WHICH AT THAT TIME WAS NOT A STATE.

WAS ALSO YOUNGEST MINISTER IN WHITLAM GOVT.

REGARDS, FJN
NUHAN AA27127Φ
83499 NUGAN HX

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NUHAN AA27127
83499 NUGAN HXNO 237

25.8.78

ATTN: FJN

ORGANISERS ADVISE THAT LABOUR MEMBERS MAY BE TOO CONTROVERSIAL AND LIBERAL MEMBERS TAKE TOO LONG TO OBTAIN AN ANSWER ON WHETHER THEY WOULD ACCEPT. HAVE BEEN REQUESTED TO ASK YOU REGARDING FORMER PREMIERS I.E. GORTON, MCMAHON, SIR ROBERT ASKIN AND OTHER FORMER PREMIERS AS FIRST CHOICES. FORMER IMMIGRATION MINISTER ALSO GOOD. OBVIOUSLY PRESENT ONE WOULD BE THE BEST. IN VIEW OF TELEPHONE PROBLEM AND MONDAY BEING A HOLIDAY IN HK PLEASE TREAT THIS AS MOST URGENT.

TELEX REPLY ASAP. MANY THANKS.

REGARDS

LES
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NUHAN AA27127
GA
80283499+

83499 NUGAN HX
NUHAN AA27127

25 AUG 1978
NO.546

FOR LES COLLINGS

ADVISE SIR WILLIAM MCMAHON AVAILABLE, DETAILS FOLLOW

MOM

RT HON WILLIAM MCMAHON MHR
MEMBER FOR LOWE (NSW) FEDERAL GOVT
LIBERAL PARTY
FORMER PRIME MINISTER
NOT NOW A MINISTER

SORRY WE DON'T SEEM TO HAVE AN ADDRESS FOR HIM BUT
CARE PARLIAMENT HOUSE
CANBERRA
WLD FIND HIM

REGARDS, PATRICIA
NUHAN AA27127@
83499 NUGAN HX

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NO 239

30.8.78

ATTN: FJN

AT THE SEMINAR 'INVESTING IN AUSTRALIA' ORGANISED BY THE AUSTRALIAN OVERSEAS CHINESE CLUB ON SEPT 21 AT THE HK CONVENTION CENTRE I AM TO BE ONE OF THE SPEAKERS. PROPOSED TITLE OF MY ADDRESS IS 'AUSTRALIAN INVESTMENT PROCEDURES AND OPPORTUNITIES' TIME APPROX 1 HOUR.

I WOULD APPRECIATE YOUR ASSISTANCE AND GUIDANCE ON THIS AND ALSO THAT IT MIGHT PROPERLY REFLECT THE FIRM'S ATTITUDE. THE POTENTIAL MARKET - CHINESE - IS BIG AND IT COULD BE VERY WELL REPORTED. YOUR LITERARY SKILL - IF YOU HAVE TIME - IS REQUESTED. I WILL USE MY AUSTRALIAN ACCENT TO PUT IT ACROSS WELL. KINDLY TELEX ME IF YOU HAVE ANY QUESTIONS. BY THE WAY BILLY MCMAHON HAS BEEN OFFICIALLY INVITED. NO ANSWER YET.

REGARDS

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13SEPT78 NO. 568

FOR LES

A MR. GIBSON TELEPHONED TODAY. HE WISH TO HAVE DETAILS OF THE OVERSEAS CHINESE MEETING AT WHICH HE IS GIVING A SPEECH AND AT WHICH HE THOUGHT YOU ARE TO GIVE A SPEECH ON THE 21ST OF THIS MONTH. CAN U PLS ADVISE DETAILS OF THE ORGANISATION AND WHAT IS THE NATURE OF THE MEETING.

REGARDS, STEVE

NUHAN AA27127⊕
83499 NUGAN HX

HON DR H A JENKINS MP
PARLIAMENT HOUSE
CANBERRA 2600 TEL 72 6801

13 September 1984

The Hon. Mr Justice D.G. Stewart,
Commissioner,
Royal Commission of Inquiry into the Activities
of the Nugan Hand Group,
G.P.O. Box 2528,
SYDNEY. N.S.W. 2001.

Dear Justice Stewart,

I have received your letter of today's date relating to certain proceedings in the House of Representatives yesterday.

In effect you raised 2 particular matters with me - first the question of the possible appearance of Mr R.S. Hall, M.P. before the Royal Commission of Inquiry into the Activities of the Nugan Hand Group, and secondly the question of permission to obtain possession of a document tabled by Mr Hall in the House yesterday.

Should Mr Hall be invited to appear before the Royal Commission, and accept that invitation, his appearance in itself should not involve a matter of privilege. On the other hand, should Mr Hall not be prepared to accept such an invitation, the possible service of a subpoena on him to secure his attendance does raise issues of Parliamentary privilege.

Any service of process, or attempt at service of process, on Mr Hall in Parliament House Canberra on any day when the House is sitting, has sat or will sit would be capable of being pursued as a possible contempt of the House. Should a subpoena be served on Mr Hall when the House was not sitting or when he was not in Parliament House, Canberra, other questions could arise. A Member receiving a subpoena in such circumstances could claim exemption from attendance as a witness before the Royal Commission whilst the House was in session and possibly for a period before and after the session. Further, a Member may take the view that such service, or attempted service, of process on him in a matter connected with his service in the House was an attempt to harrass, intimidate or influence him in the performance of his duties as a Member.

In any event should a Member appear before the Royal Commission and matters connected with his participation in proceedings in the House arise, unquestionably the law, as established by Article 9 of the Bill of Rights would need to be observed. The Member could not, accordingly, be challenged, questioned, or cross-examined on his statements in the House or on his participation in other ways in proceedings in the House.

The second specific question that you raise is in relation to permission to obtain possession of a document tabled by Mr R.S. Hall yesterday. In my view the production of such a document for the purposes you outline, would require the permission of the House itself.

Accordingly, should you wish to pursue your request for permission to obtain possession of a copy of the tabled document would you please advise me so that I may inform the House of your request when sittings are resumed on 2 October 1984.

It would be inappropriate for me to comment on the other matters raised in your letter, and I do not propose to do so.

I propose to make copies of this letter available to Mr Hall, the Prime Minister and the Leader of the Opposition.

Yours sincerely,

(Sgd.) H. A. Jenkins

SPEAKER

THE SPEAKER

HON DR H A JENKINS MP
PARLIAMENT HOUSE
CANBERRA 2600 TEL 2[illegible]

66

17 SEP 1984

Mr R.S. Hall, M.P.,
Parliament House,
CANBERRA. A.C.T. 2600.

Dear Mr Hall,

I have received a letter from Mr Justice Stewart of the Royal Commission of Inquiry into the Activities of the Nugan Hand Group seeking certain advice.

For your information I enclose a copy of my response.

I am writing in similar terms to the Prime Minister and the Leader of the Opposition.

Yours sincerely,

(Sgd.) H. A. Jenkins

SPEAKER

65

HON DR H A JENKINS, M P
PARLIAMENT HOUSE
CANBERRA 2600 TEL 2736293

17 SEP 1984

The Hon. A.S. Peacock, M.P.,
Leader of the Opposition,
Parliament House,
CANBERRA. A.C.T. 2600.

Dear Mr Peacock,

I have received a letter from Mr Justice Stewart of the Royal Commission of Inquiry into the Activities of the Nugan Hand Group seeking certain advice.

For your information I enclose a copy of my response.

I am writing in similar terms to the Prime Minister and Mr Steele Hall.

Yours sincerely,

(Sgd.) H. A. Jenkins

SPEAKER

64

THE SPEAKER

HON. DR H. A. JENKINS, M.P.
PARLIAMENT HOUSE
CANBERRA 2600 TEL 7[illegible]

17 SEP 1984

The Hon. R.J.L. Hawke, AC, MP,
Prime Minister,
Parliament House,
CANBERRA. A.C.T. 2600.

Dear Prime Minister,

I have received a letter from Mr Justice Stewart of the Royal Commission of Inquiry into the Activities of the Nugan Hand Group seeking certain advice.

For your information I enclose a copy of my response.

I am writing in similar terms to the Leader of the Opposition and Mr Steele Hall.

Yours sincerely,

(Sgd.) H. A. Jenkins

SPEAKER

Hand delivered
10 30 18/9/84

ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN HAND GROUP

63

Commissioner: The Hon. Mr. Justice D. G. Stewart
Secretary: Mr. G. R. Linnane

G.P.O. Box 2528
Sydney N.S.W. 2001
Australia

Telephone: (02) 358 2488

18 September 1984

The Hon. Dr H.A. Jenkins, M.P.,
Speaker of the House of Representatives,
Speaker's Office,
Parliament House,
CANBERRA. A.C.T. 2600.

Dear Dr Jenkins,

Thank you for your letter dated 13 September 1984. I note the proposal in the final paragraph to make copies of the letter available to Mr Hall, the Prime Minister, and the Leader of the Opposition. May I assume you have also made available to these gentlemen copies of my letter to you of 13 September 1984 together with the enclosures forwarded therewith?

I propose to invite Mr Hall to appear before this Commission and to tell the Commission the circumstances in which he came into possession of the document tabled by him in the House on 12 September 1984. I do not propose, of course, to examine Mr Hall on what he is recorded as saying in Parliament about the document. This being so no question of any breach of Parliamentary privilege would appear to arise in respect of the proposed examination of Mr Hall. Nevertheless, for more abundant caution, I would, through you, request the House to consider expressly granting leave to Mr Hall to appear as a witness before the Commission, if he sees fit to do so, and on the basis mentioned above.

I also seek the permission of the House to have possession of the tabled document for the purpose of my inquiries in relation to its unauthorised release and I should be grateful if you would take appropriate steps to bring this matter before the House.

I am sure the seriousness of the present situation will be obvious to yourself and to the House. It appears the tabled document could only have been "leaked" by a person or persons attached to this Commission or to one of the very few other organisations having access to the data base of this Commission. It will be equally clear, I am sure, that this unauthorised use of a Commission document constitutes a grave breach of security and one which is causing interference to the work of the Commission. For these reasons I feel bound to make all reasonable inquiries with a view to ascertaining the identity of the person or persons responsible for this breach of security.

I have no objection to you making copies of this letter available to Mr Hall, the Prime Minister and the Leader of the Opposition.

Yours sincerely,

Mr Justice Stewart

THE SPEAKER

HON. DR. H.A. JENKINS, M.P.
PARLIAMENT HOUSE
CANBERRA 2600. TEL. 72 6800

21/9/84

The Hon. Mr Justice D.G. Stewart,
Commissioner,
Royal Commission of Inquiry into the Activities
of the Nugan Hand Group,
G.P.O. Box 2528,
SYDNEY. N.S.W. 2001.

Dear Justice Stewart,

Thank you for your letter dated 18 September 1984 responding to the advice conveyed to you in my letter dated 13 September 1984.

I note that you seek permission of the House of Representatives to have possession of the document tabled in the House by Mr R.S. Hall, M.P. on 12 September. I shall inform Mr Hall, the Prime Minister and the Leader of the Opposition of your request and bring it to the attention of the House when sittings are resumed on 2 October 1984. Should the House agree to your request, may I take it that a photocopy of the tabled document would be sufficient for your purposes as the standing orders of the House require the Clerk of the House to retain custody of all documents laid before the House.

I note also that you intend to invite Mr Hall to appear before the Commission. Should Mr Hall accept your invitation, his appearance in itself should not involve any question of breach of Parliamentary privilege. I do not myself see the need for the House to grant leave for Mr Hall to appear as a witness before the Commission, should he accept your invitation to attend, but I shall bring your request to the attention of Mr Hall, the Prime Minister and the Leader of the Opposition for their consideration of the desirability of proposing such a motion to the House.

I did not consider it appropriate or desirable to make available to Mr Hall, the Prime Minister or the Leader of the Opposition copies of your letter of 13 September 1984 and the attachments and I certainly would not have done so without your approval. Similarly, I do not propose to make copies of your letter of 18 September 1984 available to these gentlemen. However, should the House itself order the tabling of your letters, it would be my intention to table all of the correspondence between us on this matter.

Yours sincerely,

Signed H A Jenkins

SPEAKER

59

ROYAL COMMISSION OF INQUIRY
INTO THE ACTIVITIES
OF THE NUGAN HAND GROUP

With the Compliments of

The Hon. Mr Justice D.G. Stewart

G.P.O. Box 2528,
Sydney, N.S.W. 2001.
Telephone: (02) 358 2488

58

ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN HAND GROUP

Commissioner: The Hon. Mr. Justice D. G. Stewart
Secretary: Mr. G. R. Linnane

G.P.O. Box 2528
Sydney N.S.W. 2001
Australia

Telephone: (02) 358 2488

20 September 1984

The Hon. M.J. Young, M.P.,
Special Minister of State,
Parliament House,
CANBERRA ACT 2600.

Dear Minister,

As discussed with you by telephone yesterday, I write to seek your agreement to an investigation by the Australian Federal Police into what appears to be a "leak" of information held by this Commission.

The information to which I refer is a telex message dated 25 August 1978, number 544, from the late Mr F.J. Nugan to Mr Collings, who was then in charge of the Nugan Hand Hong Kong office. A document in the form of a computer print-out of part of this telex message was tabled in the House of Representatives by Mr R.S. Hall, M.P., on 12 September 1984.

As you may be aware, I have been in correspondence with the Speaker of the House on the matter, and having received some guidance from him, I have requested that certain action be taken by the House of Representatives.

I have already indicated to the Speaker, and I now emphasise to you, the seriousness with which I regard this matter. This unauthorised use of a Commission document is a grave breach of security, and may amount to contempt of the Commission and the commission of a criminal offence by a person or persons as yet unidentified. It is for these reasons that I have reached the view that, whilst I intend to persevere with my own investigation into the matter, an investigation by an agency independent of the Commission is necessary as well, and that the Australian Federal Police would be the most appropriate agency to conduct the investigation.

As Mr Costigan's Commission has access to this Commission's data base, any such investigation would necessarily involve his Commission also. I have discussed the matter with Mr Costigan, and he has asked me to indicate to you his readiness to cooperate with an investigation by the AFP.

I should be grateful for an early response to this request.

I have sent copies of this letter to the Prime Minister, the Speaker, and Mr Costigan.

Yours sincerely,

D G Stewart

Mr Justice Stewart

57

HON. DR H. A. JENKINS, M.P.
PARLIAMENT HOUSE
CANBERRA 2600 TEL. 72 6893

25 June
24/9/84

Mr R.S. Hall, M.P.,
1st Floor,
Clemenger House,
121 Greenhill Road,
UNLEY. S.A. 5061

Dear Mr Hall,

I refer to my letter dated 17 September 1984 with which I enclosed a copy of my response to a request received from Mr Justice Stewart of the Royal Commission of Inquiry into the Activities of the Nugan Hand Group.

I have now received a further letter from Mr Justice Stewart in which he indicates that he proposes to invite you to appear before the Commission to tell the Commission the circumstances in which you came into possession of the document tabled in the House on 12 September 1984. Mr Justice Stewart requests that the House consider expressly granting leave to you to appear as a witness before the Commission, if you see fit to do so. He also has sought the permission of the House to have possession of the tabled document for the purpose of his inquiries in relation to its unauthorised release and has asked me to take appropriate steps to bring this matter before the House.

Should you accept the invitation to appear before the Royal Commission, I do not see the need for the House to grant leave for the appearance. You would be appearing by invitation and that appearance in itself does not raise any issues of privilege necessitating the leave of the House. Also there is a possibility that the adoption of such a resolution by the House may be construed incorrectly by the Royal Commission as a "waiver" of privilege - which the House of course cannot effect - and lead to difficulties in your appearance before the Royal Commission. For this reason, I do not favour the adoption of such a resolution in these circumstances. Of course, should you decline the invitation to appear before the Royal Commission, the question does not arise.

I should also mention that when Mr Hayden appeared before the Royal Commission on 19 August 1983 in response to its invitation, no resolution was proposed in or adopted by the House.

It is my intention to report Mr Justice Stewart's request for the tabled document to the House when it resumes sitting on 2 October 1984.

Generally, this House has followed the previously existing practice of the United Kingdom House of Commons requiring the presentation of a petition before granting leave for its records to be used before courts or other tribunals. During adjournment periods it has recently become the practice of the Speaker to give approval for records to be adduced into evidence by courts or other tribunals to avoid possible delays in the administration of justice, and that action has been reported to the House at the next sitting. However, in granting such approval the Speaker has always ensured that the matter did not involve any question of privilege, especially that of a Member, and he has also drawn attention to the provisions of Article 9 of the Bill of Rights.

On 18 March 1982 the House granted leave for the Royal Commission of Inquiry into Drug Trafficking to adduce certain official records of the proceedings in the House relevant to its inquiry. On 25 March 1982 the House granted leave for the same Royal Commission to be provided with copies, and to adduce, any documents presented in the House concerning matters that may be relevant to the inquiry. In neither case did the House require the presentation of a petition.

For the House to accede to Mr Justice Stewart's request would be consistent with the action taken in respect of the Royal Commission into Drug Trafficking and there appears to be no reason why the House should not adopt a similar resolution on this occasion.

I am writing in similar terms to the Prime Minister and the Leader of the Opposition.

Yours sincerely,

H A Gerbes

SPEAKER

HON. DR H. A. JENKINS, M.P.
PARLIAMENT HOUSE
CANBERRA 2600 TEL 72 6893

55

25 copies
24/9/84

The Hon. R.J.L. Hawke, A.C., M.P.,
Prime Minister,
Parliament House,
CANBERRA. A.C.T. 2600.

Dear Prime Minister,

I refer to my letter dated 17 September 1984 with which I enclosed a copy of my response to a request received from Mr Justice Stewart of the Royal Commission of Inquiry into the Activities of the Nugan Hand Group.

I have now received a further letter from Mr Justice Stewart in which he indicates that he proposes to invite Mr Hall to appear before the Commission to tell the Commission the circumstances in which he came into possession of the document tabled in the House on 12 September 1984. Mr Justice Stewart requests that the House consider expressly granting leave to Mr Hall to appear as a witness before the Commission, if he sees fit to do so. He also has sought the permission of the House to have possession of the tabled document for the purpose of his inquiries in relation to its unauthorised release and has asked me to take appropriate steps to bring this matter before the House.

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I am writing in similar terms to Mr Hall and the Leader of the Opposition.

Yours sincerely,

H A Jenkins

SPEAKER

THE SPEAKER

HON. DR H. A. JENKINS, M.P.
PARLIAMENT HOUSE
CANBERRA 2600. TEL. 72 6893

53

as sent
24/9/84

The Hon. A.S. Peacock, M.P.,
Leader of the Opposition,
Parliament House,
CANBERRA. A.C.T. 2600.

Dear Mr Peacock,

I refer to my letter dated 17 September 1984 with which I enclosed a copy of my response to a request received from Mr Justice Stewart of the Royal Commission of Inquiry into the Activities of the Nugan Hand Group.

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I am writing in similar terms to Mr Hall and the Prime Minister.

Yours sincerely,

H A Jenkins

SPEAKER

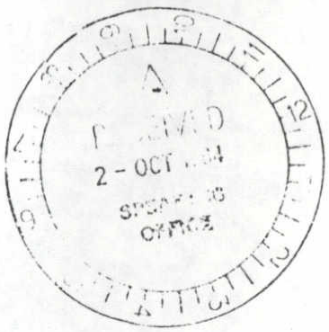
ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN HAND GROUP

51

Commissioner: THE HON. MR. JUSTICE D. G. STEWART
Secretary: MR. G. R. LINNANE

G.P.O. Box 2528
Sydney N.S.W. 2001
Australia

Telephone: (02) 358 2488



27 September 1984

The Hon. Dr H.A. Jenkins, M.P.,
Speaker of the House of Representatives,
Speaker's Office,
Parliament House,
CANBERRA ACT 2600.

Dear Dr Jenkins,

In your letter to me dated 21 September 1984 you raised the question of whether a copy of the document tabled by Mr Hall would be sufficient for my purposes. A photocopy may suffice although I would like the permission of the House to have an expert inspect the actual document tabled, in the event that this becomes necessary for the purpose of identifying its source.

The reason I requested the House to grant leave to Mr Hall in the terms mentioned in my letter dated 18 September 1984 was to put the matter beyond all argument. I might say I have not yet written to Mr Hall but of course he will be aware of my intentions in this regard from the copies of your letters which you have forwarded to him.

I have noted the remarks contained in the final paragraph of your letter.

Yours sincerely,

D.G. Stewart

Mr Justice Stewart

85/0505

50

CUTTINGS FROM The Age MELBOURNE DATE 6/9/84

Stewart to test police tapes

From RUSSELL BARTON

CANBERRA: — The New South Wales police tapes are to receive their most comprehensive test of authenticity by the Stewart Royal Commission.

The Attorney-General, Senator Evans, yesterday introduced legislation which indemnifies the Stewart Royal Commission from any offences in receiving tapes and transcripts of illegal telephone tapes.

Senator Evans said the question of authenticity of the tapes and transcripts was of "essential threshold consideration" to the commission's investigations into the Mr Asia drug trafficking syndicate.

The legislation covered all tapes and transcripts given by 'The Age' to the Director of Public Prosecutions, Mr Ian Temby, QC.

Neither the Temby inquiry nor the Senate committee on the conduct of a judge could determine if the police tapes and transcripts were authentic.

Mr Justice Stewart, who has been named as the head of the new National Crime Authority, originally asked the Federal Government for any of the NSW police tapes which related to his inquiries into the affairs of Mr Robert Trimbole.

Those transcripts were handed to Mr Justice Stewart in June. Now he is to receive the rest of the material provided by 'The Age' to the Temby inquiry.

Senator Evans said yesterday that under the new bill (The Telecommunications (Interception) Amendment Bill No 2) the commissioner, before making use of the material, must be satisfied that the documents in question were an authentic record.

The bill allows the material to be handed to the NSW Commissioner for Public Complaints, because Mr Temby had pointed out that State offences could be involved.

But Senator Evans added: "Mr Justice Stewart is probably better equipped than any other inquiry body to establish the authenticity and sources of the material."

He said that this would ensure that the reputations and livelihoods of individual citizens would not be placed in jeopardy by unauthenticed material of possibly worthless evidentiary significance.

The legislation enabled proper use of the tapes and transripts if they were authenticated, he said.

PAGE 13: Editorial.

organised crime a reprieve? To ensure public confidence that Commissioner Costigan's concerns will be dealt with, will the Prime Minister now table the Government's correspondence with Commissioner Costigan? If not, why not?

Mr HAWKE—I am indebted to the Leader of the Opposition for his question. Let me say that I think it is appropriate that the correspondence to which the Leader of the Opposition referred should be tabled. I think he will agree that it is appropriate that we contact the parties principal, and we are in the process of doing so. On the basis that we receive their agreement, we will table the correspondence.

INCOME TAX CUTS

Mr CUNNINGHAM—Can the Treasurer advise the House whether the significant tax cuts provided in the recent Budget will be maintained into the future?

Mr KEATING—They certainly will, which is in sharp contrast with the record of our predecessors in the area of tax relief. I apprise the House that yesterday, during the discussion on the matter of public importance, the Deputy Leader of the Opposition made a very revealing interjection when I referred to the 1978 surcharge on income tax which he introduced and which wiped out the 1977 tax cut. He said: 'I didn't give it, though'. That is, he did not give the tax cut. Even though he campaigned upon it as Treasurer in the 1977 election, the morality of the Opposition is that he was able to take it away five months later by imposing a surcharge on income tax because he did not give it; it had been given in the last Budget of Sir Phillip Lynch in 1977.

Despite the fact that the honourable gentleman stumped the country, and we had television advertisements about ringing up and finding out how much your tax cut is and the fistful of dollars election campaign, the justification or reason now for taking the tax cut away five months later was that he did not give it. In other words, the Deputy Leader was saying by that very revealing remark that he did not consider that he was bound by any commitment of any other member of the Liberal Party. Of course, there was no more cynical tax grab than that which was mounted by that surcharge in wiping out the 1977 tax cut. I remind the House of what Sir Phillip Lynch said in his Budget Speech:

> . . . we now intend to give effect to our tax philosophy and, once and for all, to repudiate the high tax policies pursued by our political opponents.

Yet five months later all of that rhetoric, high purpose and motive were swept aside because the honourable member for Bennelong did not give the tax cut in the first place.

That is not the only indication of the shameful record of the Opposition parties in respect of tax relief. I add that in the same year, 1978, the present Deputy Leader of the Opposition and Treasury spokesman reneged on personal tax indexation. The commitment which the Fraser Government gave and which he gave in the election campaign to tax indexation was wiped out. You might recall, Mr Speaker——

Mr Lusher—Boring!

Mr KEATING—The honourable member will hear a lot more about it. Honourable members will recall, when it was announced that tax indexation would go, the famous front page headline of the *Illawara Daily Mercury*: 'Lies, lies, lies'. But if that was not enough, not only did we see the tax surcharge in 1978 and the broken promise on tax indexation which followed, but also in the 1982 Budget, where we saw another tax cut, there was another trick. There was a $1.4 billion surcharge on indirect tax, an increase in indirect tax, which reduced the effective tax cut to next to nothing. Of course, in regard to this Budget the Opposition says that there ought to be more tax relief, but the Deputy Leader says that, faced with a choice between reducing the deficit or having a tax cut, he believes the longer term economic interest is to reduce the deficit and not to give a tax cut. So let it be put firmly on the record in respect of 1977 and the very dubious morality of the Deputy Leader of the Opposition when he said that he could take back a tax cut because he did not give it, that the Australian public can expect no income tax justice from a coalition government. Indeed, on its record, all we can expect is more broken promises as we saw in the past.

INQUIRIES UNDERTAKEN BY MR JUSTICE STEWART

Mr SINCLAIR—I ask a question of the Special Minister of State. I refer to Mr Justice Stewart's current triple roles in pursuing investigations into the Nugan Hand Bank and the *Age* tapes and at the same time taking over as head of the National Crime Authority. Will the Minister ensure that there will be no delay in the investigation of the Nugan Hand Bank or any related matters? Will he ensure that there will be no delay in the investigation of the *Age* tapes? If he will do that, will he assure the House that as a result of the priority given to those two inquiries there will be no further delay in the transition into the early stage of the NCA, or is he really not concerned about this hiatus in the fight against organised crime?

Mr YOUNG—This Go
and, to the extent that I
matters, I give the assuranc

AGED CARE FACILITI

Mr BEDDALL—Is th
aware of claims by the Q
Health of a worsening cris
care in Queensland? Can
outline of the Governme
aged care in Queensland?

Dr BLEWETT—I am
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Mr YOUNG—This Government is concerned and, to the extent that I have power over those matters, I give the assurance.

AGED CARE FACILITIES: QUEENSLAND

Mr BEDDALL—Is the Minister for Health aware of claims by the Queensland Minister for Health of a worsening crisis in facilities for aged care in Queensland? Can he give the House an outline of the Government's attitude towards aged care in Queensland?

Dr BLEWETT—I am aware of allegations made by the Minister for Health in Queensland in relation to a worsening situation in aged care facilities. Of course, as usual with every statement made by Mr Austin, the facts contradict him. Let us simply look at the facts. In the last 18 months 540 new nursing home beds came into place in Queensland, which roughly maintains the pattern of previous years. There are a further 600 beds approved and they will come on stream and we will pay the subsidies as soon as they are built.

Again, if we look at the financial figures, for last year for Queensland we paid $114m in nursing home benefits for 12,000 people in 205 nursing homes. That is approximately $500,000 for every 50 nursing home beds in Queensland. In this financial year—and it is this supposedly increasing crisis—the total bill for nursing home and domiciliary care services and benefits for Australia will be over $1,132m. In Queensland we will put $136m this year into subsidies to Queensland nursing home patients, an increase of $22m over the figure for the last financial year, which is well in advance of inflation. So we are certainly making our contribution to institutional care in Queensland, despite the remarks of Mr Austin.

I will be perfectly frank with the House and say that when we came to power we decided that this very large bill for nursing home benefits needed to be justified by very careful planning. So there was until May of this year a moratorium on approval for new nursing home beds. But any thinking member of the House will realise that that in no way affects the nursing home beds coming on stream in the last 18 months, nor will it affect them coming on stream in the next 12 months. To ensure that in the future there is no hiatus in those beds coming on stream, the actions we are now taking will ensure that that flow continues.

Of course, we are not just concentrating on institutional care. In this Budget we committed ourselves to a home and community care program for the aged, a rolling program of additional expenditure. I will not talk about the money already expended, but the additional expenditure will be $10m in this financial year, $20m in the following year and $30m in the third year of new and additional programs. Again, these relate to providing better domiciliary care services, better transport services for elderly people and better community care facilities. These programs will be designed in combination with the States, and Queensland will play a role in their development.

It is certainly true that in later years we will expect the States to make a contribution to that rolling program, but in the first year the $10m allocated is completely untied to any State contribution. If honourable members and the Queensland people are prepared to look, they will see, firstly, that nursing home beds have been coming on stream in much the same pattern as in recent years. Secondly, they will see the quite significant increases in nursing home benefits paid to Queensland this year, and they will begin to see on the ground the effect of the home and community care program.

INQUIRIES UNDERTAKEN BY MR JUSTICE STEWART

Mr PEACOCK—My question, which is directed to the Special Minister of State, flows on from the answer he gave to the Leader of the National Party of Australia. How much time in the next six months will Mr Justice Stewart be giving to the Age tapes and the Nugan Hand Bank investigations and how much time will he give to the National Crime Authority?

Mr Hodgman—Give us the bare facts, Mick.

Mr YOUNG—It would be necessary for the honourable member to have just the bare facts, knowing his past interests. I can say to the Leader of the Opposition that I just cannot answer his question. I have not talked to Mr Justice Stewart about how many hours and minutes he will expend on each of the inquiries. He has not relayed to me any problem he has in dealing with the matters he now has before him. If the matter of the duties to be performed by Mr Justice Stewart and by the other two members of the National Crime Authority and the duties they will carry out between now and Christmas 1984 raises some concern with the Opposition, I will ascertain from the Chairman of the National Crime Authority his position and will let the Leader of the Opposition know.

TOURIST VISAS

Mr MAHER—Will the Minister for Immigration and Ethnic Affairs inform the House why a decrease has occurred in the issue of tourist visas from Italy and Greece over the past two years?

Ms Stavropoulos pls file

29/8.

DEPARTMENT OF THE PRIME MINISTER AND CABINET

47

NOTE FOR FILE

STEWART ROYAL COMMISSION

I called Ms Anthea Norman, Acting Secretary of the Stewart Royal Commission, to discuss the envisaged courtesy call being paid by Mr Justice Stewart and other members of the National Crime Authority on the Prime Minister. Ms Norman advised that the meeting, as far as the Royal Commission was concerned, would be held on Thursday 6 September.

I inquired about the background to the meeting and what matters might be raised during it. Ms Norman said that it was basically a courtesy call. However, she did not rule out the possibility of some ~~of the~~ more substantive matters being raised. She said that in her view such meetings were always more productive if both parties were aware of what topics were likely to be raised. Consequently she would discuss the matter with the Judge with a view to advising me of any matters of substance which it was intended to raise with the Prime Minister, so that briefing could be provided at this end.

Ms Norman undertook to keep in touch with me on the matter.

A K Berendsen

A.K. Berendsen
Acting Assistant Secretary
Law Enforcement Branch

28 August 1984

Ms Stavropoulos ph file

Mr Vanstone PM 29/8
Mr Eggleston 29/8.

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DEPARTMENT OF THE PRIME MINISTER AND CABINET

NOTE FOR FILE

STEWART ROYAL COMMISSION - SECURITY OF PREMISES

I spoke with Mr T.H. Mooney of the Protective Services Co-ordination Centre (PSCC) concerning the Prime Minister's required outstanding letter to Mr Justice Stewart on the above subject. I pointed out to Mr Mooney that the Prime Minister would be meeting with Mr Justice Stewart shortly and that I wanted to be prepared for the Judge to raise this question.

Mr Mooney stated that he thought it was unlikely the matter would be raised by Mr Justice Stewart because the latter was aware of what had been occurring. Mr Mooney suggested that the briefing for Mr Justice Stewart's call could note that there would be a meeting in Sydney on 6 September between PSCC and representatives of the NSW Government and Police Force to finalise a "High Rise Buildings Emergency Plan". It was envisaged that after this meeting it would be possible to have the Prime Minister send a final reply to Mr Justice Stewart on the question of the security of his premises.

It is still not clear to me why there has been such a delay in providing us with the substance of a reply WS 29/8.

A K Berendsen

A.K. Berendsen
Acting Assistant Secretary
Law Enforcement Branch

28 August 1984

legitimately agree, but that same Opposition, through its official spokesman and discredited former financial representative in the Parliament, said that there should not be a tax cut but, instead, a reduction in the deficit. This Government did not accept that view. This Government chose to apply a significant tax cut of more than $2 billion in a full financial year, for a number of very goods reasons which I do not propose to go into at this stage. The Government is now being condemned by the discredited former Government because the tax cut shoult have been bigger.

Senator Peter Rae—Mr President, I take a point of order. It is contrary to the Standing Orders to be tediously repetitive and the phrases 'discredited former Treasurer' and 'discredited former Government' in the answer have now been used eight times as part of the Minister's answer. It is tedious repetition and should be disallowed.

The PRESIDENT—There is no point of order. At the same time I would ask the Minister not to debate the answer.

Senator WALSH—Certainly, Mr President. It may or may not be tedious, and I do not intend to pass judgment on that, but it is certainly embarrassing to the former Government.

Senator Chaney—Mr President, I take a point of order. Immediately you directed the Minister not to debate the question, he rose and used words which can only be described as debating the question. I suggest that he is ignoring your ruling and that his attention should be called to your original ruling and he be told to answer the question.

The PRESIDENT—I ask the Minister to restrict his remarks to giving an answer to the question, which, if one bears in mind the question that was asked, gives him a pretty wide frame.

Senator WALSH—It was an excellently phrased question, if I may say so, Mr President. The real point is that the Opposition in this as in so many other areas does not seem to know what it is for and what it is against. Four months ago it was for no tax cuts at all but supported a reduction in the deficit in lieu of a tax cut. Now, if any credence at all is to be placed on any of the things the Opposition or its representatives say, the present Opposition believes that there should have been a larger tax cut than the Government decided upon. Some people might care to advance a legitimate argument for that as well, but the real point is that in this as in so many other areas the Opposition has not got its act together. It does not know what it is for or against. I was hoping that Senator Chaney or Senator Peter Rae might clarify the point and let us all know what the Opposition is for and what it is against rather than shifting and changing in accordance with the requirements of perceived political expediency.

Senator Chaney—Mr President, the Minister addressed a question to me and I would like him to know that we are against the 8 per cent real increase in expenditure last year and we are against the 6 per cent increase in expenditure this year and the consequent high taxes.

Senator COOK—Mr President, I ask a supplementary question. The Minister in his answer referred to the fact that there were several reasons why the Government would give a tax cut but declined to give any reasons. Would he please enumerate some reasons?

The PRESIDENT—Order! I suggest that that is not a supplementary question.

NUGAN HAND BANK: MR JUSTICE STEWART

Senator SCOTT—I ask the Attorney-General whether any decision has yet been made as to whether Mr Justice Stewart should continue with his separate investigation of the Nugan Hand Bank or will this inquiry be taken over by the National Crime Authority? What stage has the Nugan Hand investigation reached, and when is a report expected? Is Mr Justice Stewart currently overseas in connection with the Royal Commission of Inquiry into the Activities of the Nugan Hand Group and will he have to be away again in the near future—including as long as a month—in the United States? If so, is the Attorney-General concerned that the work of the National Crime Authority may suffer because of the enforced absence of its chairman during the important early stages of the Authority's life?

Senator GARETH EVANS—At the moment Justice Stewart is engaged in three separate enterprises. One is in his capacity as chairman of the National Crime Authority. Of course, he is assisted in that respect by two other full time commissioners, Mr John Dwyer QC, of the Melbourne Bar, and Mr Max Bingham QC, former Tasmanian Attorney-General, who ought to be well known and respected by honourable senators opposite. To the extent that Mr Justice Stewart will be pre-occupied with other matters in the immediate future or the extent to which he has overseas trips to make—I am not sure of the details of those—one must nonetheless assume that the work of the Crime Authority in this important transitional stage will be proceeding apace.

The second task Mr Justice Stewart has is in his capacity as continuing to hold a commission on the basis of letters patent given to him back in 1981 as the royal commissioner on the Royal

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Commission of Inquiry into Drug Trafficking which is the Mr Asia or Terrence Clark affair. It is in that capacity of course that the so-called *Age* tapes were referred to Justice Stewart some time ago. It is in that capacity that Mr Temby has recommended in his report, tabled this week, that Mr Justice Stewart pursue certain further matters including the provenance of the tapes and the substantive content of them insofar as they affect matters related to the Royal Commission. Justice Stewart undoubtedly will be giving priority to that task in the immediate future. In that respect I correct a complete misapprehension in the *Age* editorial this morning which is full of misapprehensions of various kinds but in paricular to the effect that Mr Justice Stewart shortly is about to wind up his royal commissionership.

Senator Chaney—Read it. Go away and read it.

The PRESIDENT—Order, Senator Chaney.

Senator GARETH EVANS—Mr President, I am endeavouring to inform the Senate. I am not prepared to tolerate the offensiveness of the Leader of the Opposition. I ask that you bring him to order.

The PRESIDENT—Order! I have already asked the Leader of the Opposition to restrain himself.

Senator GARETH EVANS—I hope he will. I make it clear for the record that contrary to what was stated in the *Age* editorial this morning there is no question of Mr Justice Stewart imminently winding up the royal commissionership which is relevant to his further investigation of the *Age* tapes.

The third capacity in which Mr Justice Stewart is presently acting is as the royal commissioner investigating the Nugan Hand affair. I am advised that that was intended to be completed by the end of this year and that in particular the local government part of the reference was close to completion. My most recent understanding is that that will now be delayed, perhaps by three months, as a result of the necessity to give priority attention to the other matters to which I have referred. However, at this stage there is no intention to absorb the Nugan Hand royal commission activity into that of the National Crime Authority. A separate team of lawyers and staff is working on the Nugan Hand matter. As I said, it is approaching completion in all relevant respects. A report can be expected to be to hand some time early next year.

VISAS: JAPANESE BUSINESS PEOPLE

Senator RICHARDSON—Is the Minister representing the Minister for Immigration and Ethnic Affairs aware of the complaints of many Japanese companies and of the Japan Chamber of Commerce that they are experiencing considerable difficulties in obtaining visas for their senior Japanese business people posted to Australia? Is the Minister aware that delays of up to several months have been occurring in the issuing of what should be routine visas? Given that the Government wishes to foster greater economic cooperation and greater trade between the two countries what actions has the Australian Immigration Department taken to ensure that these unnecessary delays and problems do not occur in the future?

Senator GRIMES—I was aware that the Japan Chamber of Commerce in Sydney and in other places had made representations to the Minister for Immigration and Ethnic Affairs because of unnecessary delays as they saw them in providing visas that Senator Richardson mentioned. First of all I point out that although the Government realises—as I am sure all Australians realise—that many overseas companies want to have at least some home based overseas managers in those companies, we also have a responsibility to make sure that at the same time Australians are not unnecessarily being deprived of jobs in these circumstances. Therefore, part of the delays is due to the procedures which have already been laid down and which have been in existence for a long time.

The second cause of delay is the inadequate information sometimes obtained from companies applying for visas. At the moment the Minister and the Government are looking at the guidelines and are having discussions with organisations such as the Japan Chamber of Commerce. We are awaiting replies on this matter. Of overseas managers employed in Australia something like 78 per cent are Japanese. Therefore, there is obviously a considerable number of such people coming into the country.

The mere volume of applications adds to the problems created. However, the Minister and the Department are endeavouring, through negotiations with the Chamber of Commerce and by negotiation with our relevant authorities in Japan, to streamline the situation even more. However, I am sure that our friends from Japan realise that it is not just a matter of a simple visitor's visa in most cases. In fact, there are complications involved and we have our own interest to look after.

Mrs Belcher

RECEIVED
Secretary
Prime Minister and Cabinet
18 JUL 1984

NEW SOUTH WALES

- c of z to Mr Berendsen Pls.

Forwarded with the Compliments of

the Secretary,

Premier's Department

43

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[*Published in Government Gazette No.* 93 *of* 15*th June,* 1984.]

Premier's Department, Sydney.

HIS Excellency the Governor, with the advice of the Executive Council, has issued further Letters Patent to extend the time within which the Honourable Donald Gerard Stewart, a Judge of the Supreme Court of New South Wales, is required to inquire into and report upon certain matters relating to the activities of the Nugan Hand Group.

That Inquiry was authorised by Letters Patent dated 28th March, 1983, and earlier Letters Patent appointing the Judge as a Sole Commissioner. The time within which the Commissioner is now required to furnish his report and recommendations has been extended to 31st December, 1984.

(6115) NEVILLE WRAN, Premier.

D. West, Government Printer, New South Wales—1984

Mr Bevendsen
Law Enforcement Branch

DEPARTMENT OF THE PRIME MINISTER AND CABINET

Prime Minister

(For Decision)

OVERSEAS VISIT PROPOSAL - ROYAL COMMISSIONER,
MR JUSTICE STEWART

Earlier this year Mr Justice Stewart wrote to you seeking approval to undertake two overseas visits, one to Singapore and Hong Kong and the second to the United States. You agreed to the first of these visits and indicated that you would write to the Judge about the second at a later stage.

Now that Mr Justice Stewart's term as Royal Commissioner has been extended and the New South Wales Government has indicated that it is agreeable to the United States visit, the way is clear for you to write to Mr Justice Stewart again.

The Judge proposes to be in the United States for approximately 4 weeks in August for discussions with officials concerning, and interviews with former employees of, the Nugan Hand group. He would be accompanied by his wife, Senior Counsel Assisting the Commission and the Commission Secretary.

We recommend the attached letter for your signature.

Barbara Belcher
A/g Assistant Secretary
Government and Legal Branch

5 July 1984

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PRIME MINISTER

CANBERRA

The Hon Mr Justice D.G. Stewart
Royal Commissioner
Royal Commission of Inquiry into the
Activities of the Nugan Hand Group
GPO Box 2528
SYDNEY NSW 2001

My dear Judge

Further to my letter of 11 April 1984 agreeing to your proposal to travel to Singapore and Hong Kong, I now write to give my agreement to your visiting the United States for approximately 4 weeks in August. The Government of New South Wales has also indicated its agreement to this arrangement.

I note that you will be accompanied by your wife and Senior Counsel Assisting the Commission and that appropriate approval will be sought for travel by the Commission Secretary.

I should be grateful if your office would in due course provide an outline of your itinerary.

Yours sincerely

R.J.L. Hawke

DEPARTMENT OF THE PRIME MINISTER AND CABINET

PRIME MINISTER
(For Decision)

PM agreed
letter signed
10 April 1984

OVERSEAS VISIT PROPOSALS - ROYAL COMMISSIONER (MR JUSTICE STEWART)

FIRST VISIT: SINGAPORE AND HONG KONG

Duration: about two weeks in April

Accompanied by: Counsel Assisting the Commission, the Commission Secretary and Mrs Stewart.

Purpose: to take evidence and conduct interviews concerning operations of the Nugan Hand group in those locations.

SECOND VISIT: UNITED STATES

Duration: about four weeks in late May or early June

Accompanied by: Senior Counsel Assisting the Commission, the Commission Secretary and Mrs Stewart.

Purpose: for discussions with officials concerning, and interviews with former employees of, the Nugan Hand group.

COMMENTS

We have no difficulties with the proposed visit to Singapore and Hong Kong. The NSW Government has indicated its support for the visit, and we recommend your agreement.

With regard to accompanying Commission Counsel, the practice is that Royal Commissioners are the approval authority for overseas travel. Oversea Visits Committee approval is, however, required for the proposed travel by the Commission Secretary (we note Mr Justice Stewart's advice that the appropriate approval for that travel is being sought).

In relation to the second visit, in late May or early June, we suggest that the reaction of the NSW Government on the proposed extension of the Royal Commission be obtained before approval is given to travel.

RECOMMENDATIONS

We recommend that you:

- agree to the visit to Singapore and Hong Kong
- note that the Royal Commissioner is to be accompanied by his wife and by Counsel assisting the Commission
- note that appropriate approval is being sought for the travel by the Commission Secretary
- advise that the USA visit will be the subject of a separate letter
- sign the attached letter to Mr Justice Stewart.

John F. Ley
John F. Ley
A/g Assistant Secretary
Government and Legal Branch

Mr Ley

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PRIME MINISTER

CANBERRA

71 APR 1984

The Hon Mr Justice D.G. Stewart
Royal Commissioner
Royal Commission of Inquiry into the
Activities of the Nugan Hand Group
GPO Box 2528
SYDNEY NSW 2001

My dear Judge

I agree to the proposal in your letter of 29 February 1984 that you travel to Singapore and Hong Kong this month. I note that you will be accompanied by your wife and Counsel assisting the Commission and that the appropriate approval is being sought for travel by the Commission Secretary.

I shall write to you shortly in relation to the visit you propose to make to the United States in May/June.

Yours sincerely

BOB HAWKE

R.J.L. Hawke

Mr Bolden
Mr Duffy
11/4

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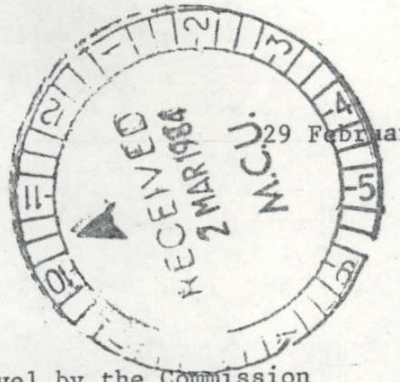
ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN HAND GROUP

Commissioner: The Hon. Mr. Justice D. G. Stewart
Secretary: Mr. G. R. Linnane

G.P.O. Box 2528
Sydney N.S.W. 2001
Australia

Telephone: (02) 358 2488

29 February 1984



Dear Prime Minister,

Overseas Travel by the Commission

My inquiry into the matters relating to the activities of the Nugan Hand group specified in the terms of reference issued to me by your Government and the Government of New South Wales on 28 March 1983 has now progressed some distance. You will be aware that my interim report on terms of reference (e), (f) and (g), which concerned various allegations made in the Commonwealth Parliament and elsewhere of interference with an earlier investigation into Nugan Hand conducted by Australian law enforcement agencies, was presented to His Excellency the Governor-General in October 1983. This report was tabled in the Parliament on 6 December 1983. Examination of matters concerned with term of reference (b), relating to the activities of the Nugan Hand group with local government authorities in New South Wales, although taking somewhat longer to conclude than I had hoped, is proceeding. While the great majority of witnesses relevant to this part of my inquiry have completed their evidence there are some yet to be called and others of those who have already given evidence will have to be recalled. In the meantime however, so far as is practicable, work is proceeding on the drafting of an interim report on this subject matter.

Concurrently with the examination of these issues, to the extent possible with existing resources, Commission staff have been preparing matters arising out of the remaining terms of reference. These matters are broad and complex. They include the destruction and concealment of Nugan Hand documents in the period immediately following the death of the late Mr F.J. Nugan, the laundering of money not declared for income tax purposes and/or being the proceeds of criminal or illegal activities, fraudulent tax evasion schemes, illegal international currency movements, the publication of false balance sheets and accounts, illegal international arms dealing, the Singapore and Hong Kong operations of the Nugan Hand group, and the allegations concerning the use of the Nugan Hand group by the United States Central Intelligence Agency.

As foreshadowed in my letter of 21 February 1984, in now moving to a closer examination of these issues and the consideration of the documentary and other evidence before the Commission, including that of further investigations undertaken in recent months by Commission officers, it will be necessary for me to examine a number of persons resident outside Australia who were significant figures in the various Nugan Hand group operations. As has been pointed out often on earlier occasions, many of these persons have United States military and intelligence community backgrounds. Most reside in the United States of America.

The Commission has already established contact and had some dialogue with the majority of those persons. Of these, all have indicated a willingness to assist the Commission and to give evidence or be interviewed on matters related to their association with the Nugan Hand group. I would wish to take advantage of this stated willingness to cooperate at the earliest possible opportunity. I believe that my hearing the evidence of these persons or interviewing them directly is the most appropriate course.

I have in recent months discussed my intentions in this regard with the Minister for Foreign Affairs, the Acting Special Minister of State and the Special Minister of State. Discussions have been held with Department of Foreign Affairs officials concerning appropriate arrangements for the taking of evidence from and/or interviewing the abovementioned persons. I have also discussed with your Ministers the desirability, in all the circumstances, of my holding discussions in the United States with the Directors and senior officials of the Central Intelligence Agency and Federal Bureau of Investigation concerning claims made about the involvement of those organisations in the activities of the Nugan Hand group and related matters. You will, of course, be aware of the sensitivity of these matters and the need for discussions in relation to them to be held at appropriate levels.

The Commission has already had contact with those organisations and also with the Permanent Sub-committee on Investigations of the United States Senate Committee on Governmental Affairs, which has been involved in investigations touching aspects of the operations of Nugan Hand and the activities of persons associated with the Nugan Hand group. I would wish as well to take up with the Chairman and officials of the United States Senate Select Committee on Intelligence certain aspects of the investigation undertaken by that Committee into Nugan Hand related matters.

I consider it will also be necessary for me to visit Hong Kong and Singapore for the purposes of taking evidence from and/or interviewing a number of persons who were involved in the substantial and significant operations of the Nugan Hand group in those locations, and for discussions with senior office-holders and officials of certain Government agencies involved in the liquidation and investigation of Nugan Hand group companies and other related matters.

On this basis and in accordance with established practice, I seek your approval to the Commission undertaking the overseas travel necessarily involved in these proposals. Subject to the progress of my inquiries in Australia on these matters and the additional matter referred to in the letter of 28 February 1984 to me from the Premier of New South Wales, a copy of which I understand has been made available to you, I have in mind travelling to Singapore and Hong Kong for a period of approximately two weeks during early to mid-April 1984. On this occasion I would wish to be accompanied by Counsel Assisting the Commission, Mr P.J. Moss, Q.C., who is supervising this particular aspect of the Commission's investigations and by the Commission Secretary, Mr G.R. Linnane. I also propose that my wife should accompany me.

I have in mind also travelling to the United States in late May or early June 1984 for a period of approximately four weeks for the purposes mentioned above. This time will be spent principally in Washington D.C. but there are former employees of Nugan Hand who reside in Honolulu and in or near Los Angeles. I propose that on this occasion I be accompanied by Senior Counsel Assisting the Commission, Mr T. Simos, Q.C., the Commission Secretary and my wife. As Mr Linnane is a Commonwealth officer, I have asked that the appropriate approvals for his travel on both occasions be sought.

For various operational reasons I do not consider it feasible for the proposed travel to Hong Kong and Singapore to be taken in conjunction with the proposed travel to the United States.

I understand that funds for the purposes of this travel have been included in the financial estimates for the Commission. In view of the cost sharing arrangements for the Commission agreed between the Commonwealth and New South Wales Governments, I have forwarded a copy of this letter to the Premier of New South Wales. I would be obliged if early consideration could be given to the above proposals. As a great number of tentative arrangements will need to be confirmed and many logistical details attended to as soon as possible, your early advice would be very much appreciated.

Yours sincerely,

D.G. Stewart

Mr Justice Stewart

The Hon. R.J.L. Hawke, A.C., M.P.
Prime Minister
Parliament House
CANBERRA A.C.T. 2600

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COMMONWEALTH OF AUSTRALIA

DEPARTMENT OF THE PRIME MINISTER AND CABINET

Departmental No. 8

.....19

Minute Paper for the Executive Council

Executive Council Meeting
No. 32

SUBJECT

ROYAL COMMISSIONS ACT 1902

ROYAL COMMISSION INTO MATTERS RELATING TO TERRENCE JOHN CLARK, THE NUGAN HAND GROUP AND CERTAIN OTHER PERSONS.

Recommended for the approval of His Excellency the Governor-General in Council that he be pleased, by Letters Patent in the attached form, to vary the Letters Patent issued on 25 June 1981, as affected by the Letters Patent issued on 28 March 1983 and 15 December 1983, appointing the Honourable Mr Justice Stewart a Commissioner to inquire into certain matters so as to require that the report of the results of the inquiry and recommendations by Mr Justice Stewart be furnished not later than 31 December 1984.

Prime Minister

Approved in Council

N. M. STEPHEN
Governor-General

27 JUN 1984

Filed in the Records of the Council

B. BELCHER
ACTING *Secretary to the Executive Council*

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COMMONWEALTH OF AUSTRALIA

ELIZABETH THE SECOND, by the Grace of God Queen of Australia and Her other Realms and Territories, Head of the Commonwealth:

TO:

DONALD GERARD STEWART

GREETINGS:

WHEREAS by Letters Patent issued in Our name by Our Administrator of the Government of the Commonwealth of Australia on 25 June 1981 We appointed you to be a Commissioner to inquire into and report upon certain matters relating to Terrence John Clark and persons associated with him:

AND WHEREAS by Letters Patent issued in Our name by Our Governor-General of the Commonwealth of Australia on 28 March 1983 the first-mentioned Letters Patent were varied so as to require that you make inquiry into certain matters relating to the activities of the Nugan Hand Group and of persons, organizations or bodies associated with the Nugan Hand Group:

AND WHEREAS the Letters Patent issued on 25 June 1981, as affected by the Letters Patent issued on 28 March 1983 and 15 December 1983, require that, not later than 30 June 1984, you furnish to Our Governor-General of the Commonwealth of Australia a report of the results of your inquiry and your recommendations:

AND WHEREAS it is desirable that further time be allowed for the completion of your inquiry and the submission of your report:

NOW THERFORE We Do, by these Our Letters Patent issued in Our name by Our Governor-General of the Commonwealth of Australia on the advice of the Federal Executive Council and in pursuance of the Constitution of the Commonwealth of Australia, the Royal Commission Act 1902 and other enabling powers, vary the Letters Patent issued on 25 June 1981, as affected by the Letters Patent issued on 28 March 1983,

ENTERED ON RECORD by me, in Register of Patents No. 19, page 25, this 27th day of June 1984.

B. BELCHER

ACTING Secretary to the Federal Executive Council

so as to require that your report of the results of your inquiry and your recommendations be furnished to Our Governor-General of the Commonwealth of Australia not later than 31 December 1984.

WITNESS His Excellency the Right Honourable Sir Ninian Martin Stephen, a member of Her Majesty's Most Honourable Privy Council, Knight of the Order of Australia, Knight Grand Cross of The Most Distinguished Order of Saint Michael and Saint George, Knight Grand Cross of The Royal Victorian Order, Knight Commander of The Most Excellent Order of the British Empire, Knight of the Most Venerable Order of the Hospital of Saint John of Jerusalem, Governor-General of the Commonwealth of Australia and Commander-in-Chief of the Defence Force.

L.S.

Dated this twenty seventh day of June 1984.

N. M. STEPHEN

Governor-General

By His Excellency's Command,

Prime Minister

EXPLANATORY MEMORANDUM

Executive Council Minute No. 8 of 1984 - Prime Minister

Subject - Royal Commissions Act 1902

Royal Commission into matters relating to Terrence John Clark, the Nugan Hand Group and certain other persons.

Section 1A of the Royal Commissions Act 1902 empowers the Governor-General in Council, by Letters Patent in the name of The Queen, to issue a commission requiring or authorising the person to whom the commission is directed to make inquiry into and report upon any matter specified in the Letters Patent, and which relates to or is connected with the peace, order and good government of the Commonwealth, or any public purpose of any power of the Commonwealth.

On 28 March 1983, Letters Patent were issued to Donald Gerard Stewart extending the terms of reference of his Royal Commission to cover an inquiry into the extent to which the Nugan Hand organisation engaged in activities involving serious contravention of laws of the Commonwealth, including laws relating to the importation, exportation or possession of drugs or armaments, or relating to exchange control. Mr Justice Stewart had previously been required to inquire into and report upon certain matters relating to Terrence John Clark and persons associated with him, particularly their involvement in drug trafficking. His major report under those terms of reference was presented in February 1983.

By the Letters Patent issued to him in March 1983, Mr Justice Stewart was required to furnish a report on his inquiry by not later than 31 December 1983. On 15 December 1983 supplementary Letters Patent were issued fixing 30 June 1984 as the new date by which Mr Justice Stewart was required to make his report.

Interim Report No. 1 of the Nugan Hand inquiry was presented on 13 October 1983. A second interim report on the local government aspects of the inquiry is expected to be presented shortly, Mr Justice Stewart's investigations in this area being largely concluded. The Commission has completed a preliminary examination of the more significant areas of inquiry suggested by its remaining, more general terms of reference concerning Nugan Hand, and is proceeding with more detailed investigation in those areas where it is judged that this would be fruitful. However, it will not be possible for a report to be furnished by the date set.

It is consequently proposed that the term of the inquiry be extended until 31 December 1984.

30

New South Wales is participating in this Royal Commission. The Premier has advised that the State Government agrees to the proposed extension to the end of the year. It is anticipated that the Governor of New South Wales will be issuing complementary Letters Patent.

The Prime Minister has agreed to the proposed extension in reporting time for Mr Justice Stewart and that the matter need not be considered by Cabinet.

Authority: Constitution Section 2
Section 1A of the Royal Commissions Act 1902.
Letters Patent issued on 28 March 1983 requiring Donald Gerard Stewart to inquire into and report upon certain matters relating to the former Nugan Hand Group of companies.

RECEIVED
Secretary
Prime Minister and Cabinet
20 JUN 1984

Enquiries: Mr. D. Austin
Telephone: 2704389

29

STATE OFFICE BLOCK.MACQUARIE STREET.SYDNEY, N.S.W. 2000

Premier's Department

14 JUN 1984

Dear Sir Geoffrey,

His Excellency the Governor and the Executive Council have approved of the time within which the Hon. Mr. Justice D.G. Stewart is required to inquire into and report upon certain matters relating to the activities of the Nugan Hand Group being extended until the 31st December, 1984.

A copy of the Royal Commission by Letters Patent issued under the Great Seal of the State of New South Wales and the hand of His Excellency the Governor accordingly, is attached for information.

Yours faithfully,

(David Austin)
for Secretary.

Sir Geoffrey Yeend, C.B.E.,
Secretary,
Department of the Prime Minister
and Cabinet,
CANBERRA. A.C.T. 2600

Elizabeth the Second, by the Grace of Goi and Her other Realms and Territi Commonwealth.

To Our Trusty and Well-beloved

The Honourable DONALD GERARD STEWART, a Judge of the Supreme

GREETING:

Whereas by Royal Commission by Letters Patent under the Great Seal of Our State of New South Wales and Our Governor of Our said State dated the twenty-fourth day of June, nineteen hundred and eighty-one and recorded in the Register of the Honourable DONALD GERARD STEWART, were authorised to inquire into and report upon certain matters relating to Terence John WHEREAS by further Letters Patent issued in Our name under the Great Seal of Our said State and the hand of Sir JAMES ANTI on the twenty-eighth day of March, nineteen hundred and eighty-three and recorded in the Register of Patents, No. 79, page 112, you required to do so by the Letters Patent issued on the twenty-fourth day of June, nineteen hundred and eighty-one, to make inquiry and r of the Nugan Hand Group: AND WHEREAS by the Letters Patent issued as aforesaid on the twenty-eighth day of March, ninetee notwithstanding anything contained in the Letters Patent issued on the twenty-fourth day of June, nineteen hundred and eighty-one, or any I to make your inquiry as expeditiously as possible and, not later than the thirty-first day of December, nineteen hundred and eighty-three, to report of the results of your inquiry and your recommendations: AND WHEREAS it is desirable that the time within which you are requ State a report of the results of your inquiry and your recommendations be extended: NOW THEREFORE We do, by these Our Letters of Our said State and the hand of Sir JAMES ANTHONY ROWLAND, Our Governor of Our said State, with the advice of the Executi than the thirty-first day of December, nineteen hundred and eighty-four, to furnish to Our said Governor of Our said State a report of the AND WE DECLARE that these Our Letters Patent shall be read with Our said Commission: AND WE DO FURTHER DECLARE that the 17 thereof, shall apply to and with respect to this inquiry.

In Testimony Whereof, We have caused these Our Letters to be made Patent, and the Grea

Witness Our Trusty and Well-beloved Sir JAMES Most Excellent Order of the British decorations of the Distinguished Flying (the Most Venerable Order of St John New South Wales, in the Commonwea this 13TH day of J and in the thirty-third year of Our Reig

By His Excellency's Command,
NEVILLE WRAN

ENTERED on Record by me, in REGISTER OF PATENTS, No. 80, Page 29, this 13TH day of June, nineteen hundred and eighty-four.

P. BYRNES
SECRETARY,
OFFICE OF THE MINISTER FOR POLICE AND EMERGENCY SERVICES.

Elizabeth the Second, by the Grace of God Queen of Australia and Her other Realms and Territories, Head of the Commonwealth.

Well-beloved

e DONALD GERARD STEWART, a Judge of the Supreme Court of New South Wales.

G:

mission by Letters Patent under the Great Seal of Our State of New South Wales and the hand of Sir JAMES ANTHONY ROWLAND, dated the twenty-fourth day of June, nineteen hundred and eighty-one and recorded in the Register of Patents, No. 78, page 175, you, the abovenamed) STEWART, were authorised to inquire into and report upon certain matters relating to Terence John Clark and persons associated with him: AND Patent issued in Our name under the Great Seal of Our said State and the hand of Sir JAMES ANTHONY ROWLAND, Our Governor of Our said State ch, nineteen hundred and eighty-three and recorded in the Register of Patents, No. 79, page 112, you were required, to the extent that you were not Patent issued on the twenty-fourth day of June, nineteen hundred and eighty-one, to make inquiry and report upon certain matters relating to the activities D WHEREAS by the Letters Patent issued as aforesaid on the twenty-eighth day of March, nineteen hundred and eighty-three, you were required, d in the Letters Patent issued on the twenty-fourth day of June, nineteen hundred and eighty-one, or any Letters Patent subsequently issued amending them, usly as possible and, not later than the thirty-first day of December, nineteen hundred and eighty-three, to furnish to Our said Governor of Our said State a y and your recommendations: AND WHEREAS it is desirable that the time within which you are required to furnish to Our said Governor of Our said our inquiry and your recommendations be extended: NOW THEREFORE We do, by these Our Letters Patent issued in Our name under the Great Seal l of Sir JAMES ANTHONY ROWLAND, Our Governor of Our said State, with the advice of the Executive Council of Our said State, require you, not later ber, nineteen hundred and eighty-four, to furnish to Our said Governor of Our said State a report of the results of your inquiry and your recommendations: ur Letters Patent shall be read with Our said Commission: AND WE DO FURTHER DECLARE that the Royal Commissions Act, 1923, including Section th respect to this inquiry.

Testimony Whereof, We have caused these Our Letters to be made Patent, and the Great Seal of Our said State to be hereunto affixed.

Witness Our Trusty and Well-beloved Sir JAMES ANTHONY ROWLAND, Knight Commander of Our Most Excellent Order of the British Empire, upon whom have been conferred the decorations of the Distinguished Flying Cross and the Air Force Cross, Knight of Grace of the Most Venerable Order of St John of Jerusalem, Our Governor of Our State of New South Wales, in the Commonwealth of Australia, at Sydney, in Our said State, this 13TH day of June, in the year nineteen hundred and eighty-four and in the thirty-third year of Our Reign.

J.A. ROWLAND
Governor.

27

THE DEPARTMENT OF
THE PRIME MINISTER AND CABINET

CANBERRA, A.C.T. 2600

The Head
Protective Services Co-ordination Centre
Department of the Special Minister of State
West Block
CANBERRA ACT 2600

STEWART ROYAL COMMISSION - SECURITY OF PREMISES

As a result of a bomb scare and previous explosion at Westfield Towers, Mr Justice Stewart wrote to the Prime Minister (and the Premier of New South Wales) on 21 December 1983 expressing 'deep concern' for the general security of his Commission. The Acting Prime Minister, Mr Bowen, replied on 8 February 1984 advising that the matter of security at Westfield Towers was under detailed review by relevant Commonwealth and State Government authorities.

Recently the Premier's Department of New South Wales wrote to this Department (copy attached) in relation to some of Mr Justice Stewart's concerns, particularly the procedures for obtaining approval for the use of Defence personnel in emergency situations. Mr Justice Stewart is of the view that such procedures should be streamlined.

We referred the matter to the Department of Defence for comment (a copy of their reply is also attached). Before responding to the Premier's Department of New South Wales, we should appreciate any views you might have on the matter.

A.K. Berendsen
Acting Assistant Secretary
Law Enforcement Branch

14 June 1984

26

AUSTRALIA

DEPARTMENT OF DEFENCE

RUSSELL OFFICES
CANBERRA, A.C.T. 2600

IN REPLY QUOTE: MPO 84/2882/1

The Secretary
Department of Prime Minister and Cabinet

Attention: Mr John Loy
Assistant Secretary
Law Enforcement Branch

STEWART ROYAL COMMISSION - SECURITY OF PREMISES

I refer to your memorandum of 30 April 1984 concerning the handling of the bomb scare in Westfield Towers on 12 December 1983 and the matters raised subsequently by Mr Justice Stewart and the NSW Premier's Department.

Firstly, I refer to Mr Justice Stewart's remark that there 'appeared to be a lack of leadership and coordination on the part of the relevant authorities' in dealing with the emergency. As the premises were privately owned, the NSW Police assumed control of the operation. The relevant responsibilities of the Federal and NSW Police is not, of course, a matter on which I am able to comment. The important issue from the Department of Defence point of view is that in such circumstances the Defence Force, when requested, only acts in support of the Commonwealth or State Governments and their respective law enforcement authorities.

The second matter raised in your memo is the suggestion by the NSW Police Commissioner that 'there is a need to review the existing delegation powers to regional or district Defence Department commands in respect of emergency situations of this nature'. On this point, I would make clear that current Defence Force instructions already provide that 'a local Service Commander may provide Defence Force personnel and equipment when the following conditions exist:

a. in circumstances of immediate and pressing need when no police are present to make a request and there is no time to obtain higher level direction; or

b. in circumstances where police are present on the scene and make a request of exceptional urgency, and there is no time to obtain higher level direction.'

In the incident in question, a request for Defence Force assistance was received at 0859 hours and Army personnel were on the scene at 0912 hours. Army Dog Teams confirmed the reaction of an AFP dog, that explosives were present inside a locked storeroom. The major problem was to gain entry to the storeroom without detonating any explosives that might be inside. A formal request for Army personnel to gain access to the storeroom was not made to Army personnel on the scene until 1110 hours.

25

There were three main reasons why the request for Army personnel to effect entry to the storeroom was referred through the Army Commander of NSW to the Chief of Defence Force Staff. These were:

a. the possible damage which could have been caused to the Westfield Towers complex had explosives been detonated whilst effecting entry and the compensation claims which may have resulted;

b. the need to establish the most suitable Defence Force personnel to undertake the task; and

c. the requirements of Defence Force Instructions governing aid to the civil power in circumstances where, following the evacuation of the building, there was no pressing danger to life.

Approval was given to Army personnel on the scene to effect entry at 1310 hours. Entry was effected, the room searched and the area was declared clear at 1545 hours.

In the circumstances, particularly in view of the high risk situation that existed, I believe that the Defence Force followed the correct course of action in handling the incident. While it is unfortunate that the occupants of the Westfield Towers had to remain outside the building for up to seven hours, I am sure you would agree that the safety of life and property is paramount.

From a Defence point of view, I would suggest that the existing arrangements would work more efficiently if requests from Police Forces for Defence Force assistance were always made by the appropriate authority, that is by a Police Commissioner, his delegate(at an appropriate level) or an authority superior to them, and included indemnity agreements, where appropriate.

The present Defence Force arrangements for aid to the civil power are, I believe, adequate for forseable circumstances.

(B.H. COLLINGS)
Air Vice Marshal
Chief of Joint
Operations and Plans

Joint Military Operations
and Plans Division
6 June 1984

0196H

CENTRAL REGISTRY
8 JUN 84 09 24
FILE NO.

24

JOINT PRESS STATEMENT BY
SENATOR THE HON. G.J. EVANS, QC, ATTORNEY-GENERAL AND
THE HON. M.J. YOUNG, MP, SPECIAL MINISTER OF STATE

12 June 1984
85/84

NATIONAL CRIME AUTHORITY

Cabinet today agreed to recommend to the Executive Council the appointment of the Hon. Mr Justice D.G. Stewart as the inaugural Chairman of the National Crime Authority, with the appointment to take effect from 1 July.

Mr Justice Stewart, a Judge of the NSW Supreme Court, is presently conducting the Royal Commission of Inquiry into the Activites of the Nugan Hand Group. (Further biographical details are attached). Discussions are taking place with His Honour about the most practical way to continue that Inquiry while at the same time heading the National Crime Authority.

Subject to the Royal Assent to the legislation, Cabinet also agreed to recommend to the Executive Council that the legislation be proclaimed to take effect from the same day, 1 July, 1984.

Once the legislation takes effect there will, as previously announced, be a period of about four weeks during which officials of the National Crime Authority will work with Commissioner Costigan and his staff to ensure an effective handover of relevant materials and investigations from the Royal Commission Inquiring into the Activities of the Ship Painters and Dockers Union. Also during this period operational and establishment details for the Authority will be developed.

Following this transition period, Commissioner Costigan will spend a further two months completing his final report.

Two other members of the Authority remain to be appointed, by Commonwealth and State Attorneys-General and Police Ministers respectively. Consultations are presently taking place between the relevant Ministers, with a meeting proposed for Canberra later this month, and it is anticipated that appointments will be announced within a matter of weeks.

Cabinet also agreed to our joint recommendation that ministerial responsibility for the National Crime Authority when in operation should be vested in the Special Minister of State, on the basis that it was a natural extension of the jurisdiction of that Minister with his present responsibility for both the Australian Federal Police and for Royal Commissions.

Cabinet also agreed to establish a special Sub-Committee of the Cabinet Legal and Administrative Committee to deal with matters relating to the operation of the new Authority, and in particular to coordinate the respective roles of the Attorney-General's Department and the Department of the Special Minister of State in relation to it. This Sub-Committee is to consist of the Prime Minister, the Deputy Prime Minister, the Attorney-General and the Special Minister of State.

** ** ** ** **

Canberra

ATTACHMENT

The Honourable Mr Justice Donald Gerard Stewart - Biographical information

Born Sydney, 25 November 1928.

	1959 -	Completed Barristers Admission Board Course.
August	1959 -	Admitted to New South Wales Bar.
May	1960 -	LLB Sydney University.
June	1967 -	LLM Sydney University.
August	1977 -	Appointed to New South Wales District Court.
June	1981 -	Appointed to New South Wales Supreme Court.
June	1981 -	Appointed Royal Commissioner, Royal Commission of Inquiry into Drug Trafficking, by the Commonwealth, New South Wales, Victoria and Queensland Governments.
November	1982 -	Appointed Royal Commissioner, Royal Commission of Inquiry into Drug Trafficking, by the New Zealand Government.
March	1983 -	Appointed Royal Commissioner, Royal Commission of Inquiry into the Activities of the Nugan Hand Group, by the Commonwealth and New South Wales Governments.

Mr Justice Stewart was educated at Sydney Boys High School and later at Sydney University. Prior to admission to the Bar in 1959, he was for approximately ten years an officer of the New South Wales Police Force, and his service included a five year period of attachment to the Police Prosecutors Branch.

At the Bar his practice was divided between the criminal law, common law and licensing jurisdictions.

In April 1976 he was appointed Counsel Assisting the New South Wales Royal Commission into Prisons (the Nagle Commission).

Prior to his appointment in June 1981 as Royal Commissioner, he was Chairman of the New South Wales Corrective Services Advisory Council, and while at the Bar was for a period a commissioned officer in the Royal Australian Air Force Legal Reserve.

2

DEPARTMENT OF THE PRIME MINISTER AND CABINET

Ray Jane Diplock (NSW - Remem Dept) o advised of

further steps re Stewart

& Attorney: Advice.

HB 12/6

3.52pm.

83/505

Dr Preston
Mr Bernadsen
Mr Bell

Mr G.R. Linnane
Secretary
Royal Commission of Inquiry
into the Activities of
the Nugan Hand Group
GPO Box 2528
SYDNEY NSW 2001

Dear Mr Linnane

Sir Geoffrey Yeend has asked me to thank you for your letter of 30 May, informing him of the recent changes to appointments of Counsel Assisting the Commission.

Yours sincerely

Carol Summerhayes
Executive Assistant

5 June 1984

19

ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN HAND GROUP

Commissioner: The Hon. Mr. Justice D. G. Stewart
Secretary: Mr. G. R. Linnane

G.P.O. Box 2528
Sydney N.S.W. 2001
Australia

Telephone: (02) 358 2488

RECEIVED
Secretary
Prime Minister and Cabinet
4 JUN 1984

30 May 1984

Dear Sir Geoffrey,

I am writing to advise formally of several recent changes to the appointments of Counsel assisting the Commission.

Mr T. Simos Q.C. and Mr I.A.N. Lawry have now returned to their practices. Mr P.J. Moss Q.C., formerly Counsel Assisting the Commission has been appointed Senior Counsel Assisting, in place of Mr Simos Q.C. Mr N.R. Cowdery of the New South Wales Bar has been appointed Counsel Assisting the Commission and will be responsible for the conduct of the Commission's current inquiry into certain matters arising out of the Commission's drug trafficking terms of reference.

Yours sincerely,

(G.R. Linnane)
Secretary

Sir Geoffrey Yeend, C.B.E.
Secretary
Department of the Prime Minister
and Cabinet
Edmund Barton Building
Macquarie Street
BARTON A.C.T. 2600

Authorising Copy 18
83/0505

PRIME MINISTER

CANBERRA

The Hon. Mr Justice D.G. Stewart
Commissioner
Royal Commission of Inquiry into the
Activities of the Nugan Hand Group
GPO Box 2528
SYDNEY NSW 2001

5 JUN 1984

Dear Judge

I refer to your letter concerning the duration of your Royal Commission and seeking an extension to 31 December 1984.

In this letter you expressed the view that any useful inquiry into the more significant aspects covered by the general terms of reference of your Commission will take until the end of 1984. This estimated completion date was, as you indicate, foreshadowed in your letter of 6 October 1983 to the Attorney-General.

The Commonwealth and New South Wales Governments have agreed to an extension of the term of your Commission to 31 December 1984 on the basis that the Royal Commission will conclude its work and report by that date. Action is in hand to obtain formal approval to the extended term from the Commonwealth and State Executive Councils. An announcement covering this matter will be made in the near future.

I am sending a copy of this letter to the Premier of New South Wales.

Yours sincerely

BOB HAWKE

R.J.L. Hawke

AK Beardsen
1-6-84

DEPARTMENT OF THE PRIME MINISTER AND CABINET

PRIME MINISTER
(For Decision)

EXTENSION OF REPORTING TIME FOR THE STEWART ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN HAND GROUP

Mr Justice Stewart has written requesting a six months' extension of the reporting deadline of his Royal Commission to 31 December 1984.

In seeking this further extension, Mr Justice Stewart advises that he has almost completed the local government aspects of his inquiry into Nugan Hand and anticipates providing an interim report shortly. He notes that a preliminary examination of the more significant areas of inquiry suggested by the Commission's general terms of reference concerning Nugan Hand has been completed and is proposing to proceed with detailed investigation of some of these areas where it is judged that investigation would be fruitful.

On 5 April 1984 you wrote to the Premier of New South Wales proposing agreement to a six months' extension for the Commission subject to a continuation of present cost sharing arrangements, and on the understanding that any further extension beyond December 1984 will cause difficulties. The Premier has now replied advising that this proposal is acceptable to New South Wales.

Mr Justice Stewart's appointment as Chairman of the National Crime Authority will be raised for Cabinet consideration next week. The intention is that Mr Justice Stewart will occupy the position of Chairman of the National Crime Authority concurrently with that of Royal Commissioner. There are no suggestions at present that this dual appointment will prolong the Royal Commission.

The attached letter advising Mr Justice Stewart of the six months' extension to his Royal Commission is recommended for your signature. It is desirable that Mr Justice Stewart be advised of this extension before an announcement is made of his concurrent appointment to the Authority.

Executive Council documents, which are necessary to give effect to the proposed extension, are now being prepared for your signature.

A.K. Berendsen
Acting Assistant Secretary
Law Enforcement Branch

1 June 1984

CABINET IN CONFIDENCE

10

DEPARTMENT OF THE PRIME MINISTER AND CABINET

Letter signed 4 June 1984

PRIME MINISTER
(For Decision)

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A K Berendsen

A.K. Berendsen
Acting Assistant Secretary
Law Enforcement Branch

1 June 1984

Preston

CABINET IN CONFIDENCE

RECEIVED
7 JUN 1984

15

CANBERRA

With the Compliments

of the

Prime Minister

The Hon. Neville Wran, Q.C., M.P.
Premier of New South Wales
SYDNEY NSW 2000

PRIME MINISTER

CANBERRA

The Hon. Mr Justice D.G. Stewart
Commissioner
Royal Commission of Inquiry into the
Activities of the Nugan Hand Group
GPO Box 2528
SYDNEY NSW 2001

Dear Judge

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I am sending a copy of this letter to the Premier of New South Wales.

Yours sincerely

R.J.L. Hawke

PREMIER'S DEPARTMENT
SYDNEY

13

Facsimile Phone No. -
(02) 231-1110

TO: THE SECRETARY
DEPT. PRIME MINISTER & CABINET
CANBERRA
ATTN. MR. A. BERENDSEN

FROM: DAVID AUSTEN...FOR SECRETARY....
PREMIER'S DEPT.
SYDNEY
..... PHONE: .....

DATE: 31.5.84 NUMBER OF PAGES FOLLOWING: TWO

COMMENTS:-

DRAFT LETTERS PATENT FOR INFORMATION.

Any queries re transmission of facsimile or if message not received in full, please contact:

Jennifer Jones
Premier's Department SYDNEY
Phone: (02) 270-4031
Telex: NSWPREM AA21269

Elizabeth the Second, by the Grace of God Queen of Australia and Her other Realms and Territories, Head of the Commonwealth.

To Our Trusty and Well-beloved

The Honourable DONALD GERARD STEWART, a Judge of the Supreme Court of New South Wales.

GREETING:

Whereas by Royal Commission by Letters Patent under the Great Seal of Our State of New South Wales and the hand of Sir JAMES ANTHONY ROWLAND, Our Governor of Our said State dated the twenty-fourth day of June, nineteen hundred and eighty-one and recorded in the Register of Patents, No. 78, page 175, you, the abovenamed the Honourable DONALD GERARD STEWART, were authorised to inquire into and report upon certain matters relating to Terence John Clark and persons associated with him: AND WHEREAS by further Letters Patent issued in Our name under the Great Seal of Our said State and the hand of Sir JAMES ANTHONY ROWLAND, Our Governor of Our said State on the twenty-eighth day of March, nineteen hundred and eighty-three and recorded in the Register of Patents, No. 79, page 112, you were required, to the extent that you were not required to do so by the Letters Patent issued on the twenty-fourth day of June, nineteen hundred and eighty-one, to make inquiry and report upon certain matters relating to the activities of the Nugan Hand Group: AND WHEREAS by the Letters Patent issued as aforesaid on the twenty-eighth day of March, nineteen hundred and eighty-three, you were required, notwithstanding anything contained in the Letters Patent issued on the twenty-fourth day of June, nineteen hundred and eighty-one, or any Letters Patent subsequently issued amending them, to make your inquiry as expeditiously as possible and, not later than the thirty-first day of December, nineteen hundred and eighty-three, to furnish to Our said Governor of Our said State a report of the results of your inquiry and your recommendations: AND WHEREAS it is desirable that the time within which you are required to furnish to Our said Governor of Our said State a report of the results of your inquiry and your recommendations be extended: NOW THEREFORE We do, by these Our Letters Patent issued in Our name under the Great Seal of Our said State and the hand of Sir JAMES ANTHONY ROWLAND, Our Governor of Our said State, with the advice of the Executive Council of Our said State, require you, not later than the thirty-first day of December, nineteen hundred and eighty-four, to furnish to Our said Governor of Our said State a report of the results of your inquiry and your recommendations: AND WE DECLARE that these Our Letters Patent shall be read with Our said Commission: AND WE DO FURTHER DECLARE that the Royal Commissions Act, 1923, including Section 17 thereof, shall apply to and with respect to this inquiry.

12

ENTERED on Record by me, in REGISTER OF PATENTS, No. , Page

day of June, nineteen hundred and eighty-four.

SECRETARY,
OFFICE OF THE MINISTER FOR POLICE
AND EMERGENCY SERVICES.

, this

By His Excellency's Command,

In Testimony Whereof, We have caused these Our Letters to be made Patent, and the Great Seal of Our said State to be hereunto affixed.

Witness Our Trusty and Well-beloved Sir JAMES ANTHONY ROWLAND, Knight Commander of Our Most Excellent Order of the British Empire, upon whom have been conferred the decorations of the Distinguished Flying Cross and the Air Force Cross, Knight of Grace of the Most Venerable Order of St John of Jerusalem, Our Governor of Our State of New South Wales, in the Commonwealth of Australia, at Sydney, in Our said State, this day of June, in the year nineteen hundred and eighty-four and in the thirty-third year of Our Reign.

Governor.

31 MAR 84 0 31

VI

31 MAY 84 0 34-

Mr Berendsen

NUGAN HAND FROM THE INSIDE

Two confidential Drug Task Force documents which shed new light on the strange practices of the failed Nugan Hand Bank and on the escape from Australia of Michael Hand have been made available to The Bulletin. *BRUCE STANNARD reports that one is an interview conducted in Acapulco, Mexico, with Maurice Bernard "Bernie" Houghton, the mystery man behind Nugan Hand's Saudi Arabian operations. The other, an interview with Robert Wallace Gehring, a friend of Hand, is the result of an extraordinary pact in which both the federal and New South Wales attorneys-general agreed to waive prosecution.*

For three years there has been intense media speculation on how Nugan Hand was run and exactly how Hand made good his escape to the United States. Now, for the first time, two men involved intimately reveal the inside story.

HOUGHTON describes in detail how $4 million or $5 million deposited in Saudi Arabia was converted into $1000 travellers' cheques and taken out to Singapore; and deals with allegations of his involvement with drugs and with the CIA.

GEHRING tells of the removal of Nugan Hand files to an inner-Sydney cold store, describes how he helped to obtain a false passport for Hand and gives details of Gehring's role in covering up Hand's disappearance.

ON JUNE 9, 1981, Bernie Houghton and his San Francisco lawyer, Charles Morgan, shook hands with Kevin Woods and Bob Gray, two investigators from Australia's Commonwealth-State Joint Task Force on Drug Trafficking, and ushered them into the elegance of Houghton's suite on the 26th floor of Acapulco's luxurious Princess Hotel.

Below them, the immaculate white sands of Revolcadero Beach fringed the deep blue of the Pacific. Woods and Gray had flown 8,000km over the same ocean for what was to be an extraordinary four-day meeting with the man said to be one of the prime movers in the mysterious Nugan Hand Bank.

NEWS LIMITED

Frank Nugan: Houghton refused to work for him

Houghton had left Australia in Ju[illegible] the previous year – two weeks after the sudden disappearance of Michael Hand. Hand's partner, Frank Nugan, had been found shot dead in the January following the collapse of the international bank which bore their names.

Houghton, who subsequently had told friends he was anxious to clear his name, was to provide the first detailed insider's account of Nugan Hand's bizarre operations and of the strong personal tensions which underscored relations between Nugan and Hand and between Houghton and Nugan as well.

Houghton went quickly through his "antecedents" for the investigators. He was born in Texas in 1920 and lived in various cities in the south-western United States where his father worked as an oil driller. He was at the Southern Methodist University when the United States went to war in 1941. He enlisted in the US Air Force cadet training program and was discharged in 1946. He went into business in "restaurants, clubs, surplus war material and miscellaneous."

He went to Vietnam early in the 1960s. There he worked for a "construction material expediter" until he came to Sydney in January 1967. He went to work for Parkes Development as a real estate salesman and opened the Bourbon and Beefsteak bar in Kings Cross in November 1967.

Houghton and Hand met socially in 1967. The two Americans (Houghton from Texas and Hand from New York) lived near each other in Kings Cross. They got on well from the outset and were seen dining together frequently in the Bourbon and Beefsteak in Darlinghurst Road.

Houghton said he had heard of Hand's combat exploits in Vietnam as early as 1964. (Hand was a highly-decorated member of the elite Green Berets, a commando unit which often worked behind enemy lines.) Houghton said he had a "Sergeant York image" of Hand.

It was in October 1978 that Hand asked Houghton to go to Germany to review an investment Nugan Hand had there. "I advised Mike," Houghton said, "that I neither spoke German nor knew the banking business nor perhaps the banking system in Germany but he told me that my logic and my judgment were what he wanted.

"I then went for 10 days to Hamburg, Germany, with all expenses paid by Mike Hand. Mike asked me about

that time to join the organisation but I declined. Upon my return from Germany I stopped in the United States and visited with Admiral Yates, who encouraged me to join the organisation. (Earl P. Yates, a retired US Navy rear-admiral, was formerly the head of planning for the Pacific Command and a senior aide to the Secretary of the Navy. Yates joined Nugan Hand International in 1977 and was the first president of the company. He was responsible for recruiting various senior executives, including top former US military officers, to the group.)

Houghton told the investigators that he and Yates discussed the job offer for several days but the response was that he would "think about it."

Houghton went to Texas where he said he "learned of the exciting potential for business in Saudi Arabia." He discussed this with Hand in Singapore on his way back to Sydney and Hand urged him to open an office there.

"When I arrived I learned that there were many American workers there who were interested in depositing large sums of money in offshore banks, which practice was not illegal in that country. Because of the religious practices of the Saudi Arabians, interest on deposits was not readily available to the American workers at reasonable rates (in Saudi Arabia), therefore the opportunities for a bank (offshore) were obvious."

Houghton agreed to set up the Saudi Arabian operation after Hand assured him that the company was financially strong and adequately capitalised. After Houghton's third or fourth visit to Saudi Arabia he agreed to accept a full-time appointment but only after he had thrashed out an agreement with Hand that he would not be working for Nugan. Houghton insisted that he work only for the Nugan Hand Bank of the Cayman Islands which, he said, was owned solely by Hand.

Houghton said his function in Saudi Arabia was to attract deposits to the bank. He was responsible directly to Hand, who was stationed in Singapore.

"When a depositor would make a deposit at the Saudi Arabian office he would receive a certificate of deposit which would have on it the pre-signed signature of either Mike Hand, George Shaw or Steve Hill. (Shaw and Hill were both directors of the bank in Sydney.) Whoever accepted the deposit in Saudi Arabia would also sign the certificate of deposit. The customer would receive either the original certificate or a copy of his option. All copies or originals of the certificate of deposit retained by the Saudi Arabian office would then be forwarded to the Singapore office for holding."

Houghton was asked by the investigators to explain the method of transferring deposits from Saudi Arabia to Singapore.

"All deposits," he said, "were first converted into United States travellers' cheques of denominations of $1000 each. These were then delivered by an airline courier service directly to Singapore. This service was available six days a week.

"Concurrently to the delivery of the packet to the airline courier service, a telex in code would be sent to Mike Hand with advice as to the delivery."

Houghton said he operated the Saudi Arabian office for slightly over a year. He said he did not know the total amount of money accepted on deposit by the Saudi Arabian office for transfer to Singapore.

"But," he said, "a rough guess would be four or five million dollars American. That could include re-deposits . . ."

Houghton said he had "no actual knowledge" of where the funds were sent ultimately but, based upon what he was told, it was his guess that they went first to the Bank of the Cayman Islands and then into money markets around Australia, Hong Kong, Singapore and London for the purpose of bank-endorsed bills.

Houghton described an incident which illustrated the tension in his relationship with Nugan. Nugan had suggested that additional bank branches be opened in Saudi Arabia. He introduced Houghton to a man he identified as a cousin of George Shaw (a Nugan Hand director) and recommended that he be employed in Saudi Arabia.

"Rather than having any confrontation with Frank Nugan at the time," Houghton said, "I told him I would

TWO GREAT MAGAZINES IN ONE

AUSTRALIA will soon have two great magazines in one. As from early July, the Australian edition of *Newsweek* will be incorporated in *The Bulletin.*

The Australian edition of *Newsweek* will no longer be published separately. Subscribers to the magazine will receive copies of *The Bulletin* instead, containing 24 pages of the best of *Newsweek* each week.

Newsweek will be run as a section of *The Bulletin,* including its own cover.

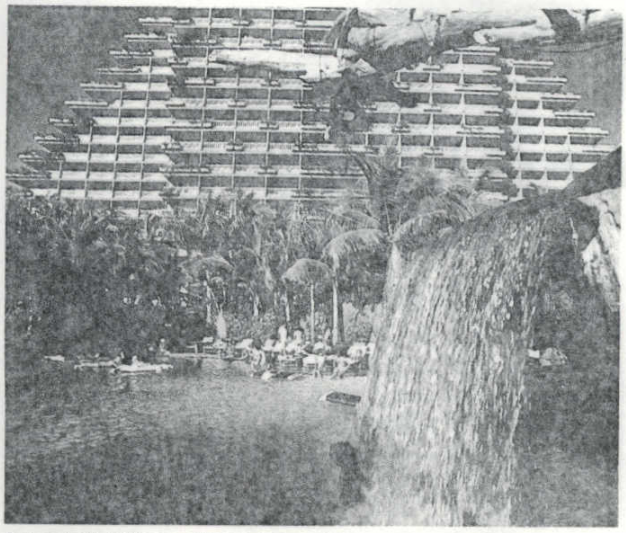
The merger, announced last week after months of negotiation, brings together two of the world's great magazines. *The Bulletin,* with its staff of top writers and commentators, is now the predominant Australian news magazine. *Newsweek,* created in 1933, is one of the world's top news magazines, widely respected for its coverage of international affairs.

It is the first time anywhere in the world that one of the two major international news magazines has merged with a local competitor.

The editor-in-chief of Australian Consolidated Press, Trevor Kennedy, said that coupled with *The Bulletin's* existing unsurpassed coverage of Australian affairs, the restyled publication would be extraordinarily comprehensive in its coverage of domestic and international events.

The new publication would offer a wide range of benefits to both readers and advertisers.

"It is an exciting concept which we are confident will find a big market," Kennedy said. Current subscribers to *Newsweek* will receive the new magazine. □



THE PHOTO LIBRARY

Acapulco's Princess Hotel: luxury hideaway

KEVIN BARRY

Maurice "Bernie" Houghton: insider's account

think about it and talk to him later. Instead of contacting Frank Nugan I then contacted Mike Hand by telephone and advised him that the person suggested was not at all acceptable for many reasons and that I would not employ him. At that time I reminded Mike Hand that our agreement was that I was not to take any instructions from Frank Nugan and Mike responded by saying: 'You don't have to'."

Houghton described the man as a swarthy Lebanese, Jordanian or Iraqi. His general appearance, Houghton said, would not comply with what an American would expect of a conservative banker.

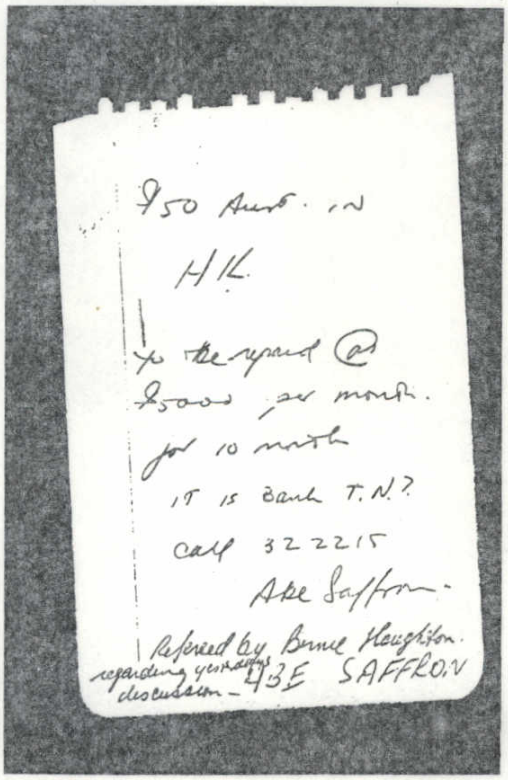
Houghton was asked to explain the circumstances in which the Saudi Arabian office of the Nugan Hand bank closed.

"First," he said, "I should point out that at this time there were two offices in Saudi Arabia. The first office was at Alkhobar and the second one, which was opened in March of 1980, was at Jeddah. Around April 12, 1980, I believe the office at Jeddah read in the English language Saudi newspaper that the Nugan Hand Bank in Hong Kong had been put into receivership.

"The employees at the Jeddah branch called Mike Murphy at the Alkhobar (office) and advised him. Mike Murphy then attempted to reach Mike Hand or myself. Ultimately he and I made contact by telephone. At that time I was in Washington DC. Mike Murphy related to me what he had been told about the bank and asked me what I knew about it. I informed him I was not aware of such fact.

"Mike Murphy asked me what he should do and I suggested that he contact Mike Hand and also I stated that, if it were I, I would probably leave the area. In Saudi Arabia there is a debtors prison policy and the likelihood would be that Mike Murphy and his employees could remain in prison until the debt is paid, which could be for life."

Houghton said Murphy contacted Hand, who confirmed the receivership story and advised him to leave the country. At the same time, he said, depositors were demanding their money. All the money on hand was dispersed to the depositors.



$50 Aust. in
H/K.
to be paid @
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for 10 month
IT is Bank T.N.?
Call 322215
Ask Saffron.
Advised by Bernie Houghton.
regarding yesterday's
discussion - BE SAFFRON

A note from the Nugan Hand files. On October 30, 1980, Stephen Hill, the former money market manager for Nugan Hand, produced to the Task Force company records among which was this undated note hand-written by Michael Hand. Hill, Houghton and Abraham Saffron, a Sydney businessman, were shown the document and denied knowledge of it

The situation became somewhat violent, he said, and Murphy and his employees caught the first plane out of the country. The bank was damaged severely by the depositors after Murphy left the premises.

Houghton was told that members of the Joint Task Force had interviewed a man named Neil Evans who alleged he was recruited to operate the Nugan Hand office in Chiang Mai, in northern Thailand. Houghton was told that Evans had made a lengthy statement and a number of serious allegations. Investigator Woods showed Houghton the statement and asked him if he wished to consult his lawyer.

"No," Houghton said, "there is no need. The allegations are completely false."

Woods: Mr Evans has stated that Michael Hand told him that you were involved in the distribution of drugs through your retail stations. What do you say about that?

Houghton: I have never been involved in the taking, selling or distributing or anything else in relation to drugs. I am certain that Michael Hand would not have said that.

Woods: Evans has alleged that you were the CIA's top man in Australia. What do you say about this?

Houghton: The statement is totally false. I am not a CIA employee, nor have I ever been.

Woods: Evans alleges that Michael Hand had succeeded in closing a deal for the Nugan Hand Bank to become the conduit for the distribu-

tion of CIA money around the world. What do you say about that?

Houghton: In my experience with the Nugan Hand Bank I have never heard that, nor have I ever had or seen any evidence of it.

Woods: Evans alleges that an account was established with the Irving Trust, New York branch, as a link between the CIA and Nugan Hand.

Houghton: There was an account with the Irving Trust Company which was used for the telex transfer of funds around the world. I have never heard nor seen any evidence that the Irving Trust Fund Bank has been used for any clandestine purpose nor for any use by the CIA whatsoever.

Woods: Do you know a man named John Needham?

Houghton: Yes . . . I met him once or twice on casual social occasions.

Woods: Evans has alleged that John Needham was a third partner with Michael Hand and Frank Nugan, having a silent controlling interest in the Nugan Hand Bank even up to the time of the death of Frank Nugan.

Houghton: I have never seen or heard anything to support that . . .

Woods questioned Houghton on other Evans allegations, including one that Nugan Hand had a facility "per medium of a customs employee in Sydney whereby currency and drugs could be smuggled into the country." Evans had alleged that this Customs official had a contact in Hong Kong "whereby a similar situation existed there."

Houghton said he had never heard of such activity. He assumed all of Evans, "baseless allegations" were "predicated upon some hope of personal gain for himself."

Houghton was asked to comment on why the Nugan Hand organisation employed former senior military people.

"Mike Hand was looking for senior type executives to manage the various banks," he said "One source of that sort of personnel obviously was senior retired military personnel. Mike Hand became aware that Admiral Yates, who was then retired and employed, was looking for a change in position. The two met and apparently hit it off and Admiral Yates was thereupon hired.

"Thereafter, Admiral Yates was instrumental in the hiring of other senior retired military officers . . ."

Houghton said he left Australia to take care of "commercial commitments." He said: "Despite all the innuendo in the media, I left the country legally and openly."

Houghton said Hand had telephoned him in the US in March 1981.

"He was lonesome, full of guilt and asking for forgiveness for having embroiled me in his problems." □

Michael Hand: escape aided by a mysterious "Charlie"

~ and how Hand escaped

ROBERT WALLACE GEHRING was originally questioned by Task Force investigators and NSW Corporate Affairs Commission officers on June 3, 1980. Eleven months later he changed his story with the concurrence of both the then federal attorney-general, Senator Durack, and the then NSW attorney-general, Frank Walker. Gehring, 37, American-born, involved in the butcher's trade, was granted immunity from prosecution on the understanding that — on the second occasion — he would tell investigators the whole truth about the disposal of Nugan Hand Bank files and the disguised escape from Australia of Michael Hand.

So, on May 29, 1981 he faced the beginning of a three-day interrogation by Kevin Woods and Bob Gray — the same investigators who flew to Acapulco to question Bernie Houghton. (Gehring also worked on and off as the manager of Houghton's Bourbon and Beefsteak bar until last year.)

Gehring said Michael Hand was a friend of his and that Hand had asked him to use his butcher's truck to help him remove Nugan Hand Bank records. Late in February 1980 Gehring and one of his employees, Barry Target, went to Nugan Hand's Sydney headquarters at 55 Macquarie Street. On the eighth floor Gehring met Houghton and George Shaw, a director of the bank, who told him to go to the AMP building in Bridge Street and wait for them there.

Later, they all went upstairs to an office in room 1709 at the AMP centre. "That's where the records were," Gehring said.

"It was a small office," he said, "about 45 feet (15 metres) long and 20 feet (6.5 metres) wide with windows at one end opposite the door. There was a desk over underneath the windows and there were four or five filing cabinets about four files high. One of the filing cabinets had a combination lock on it.

"They (the records) were all in the filing cabinets. There were two or three empty cardboard boxes there . . . George Shaw removed all the records from the filing cabinets. He filled the boxes with the records and we took the boxes down to the truck as he filled them . . . There were files in manila folders; there were cash books, journals and ledger type books . . ."

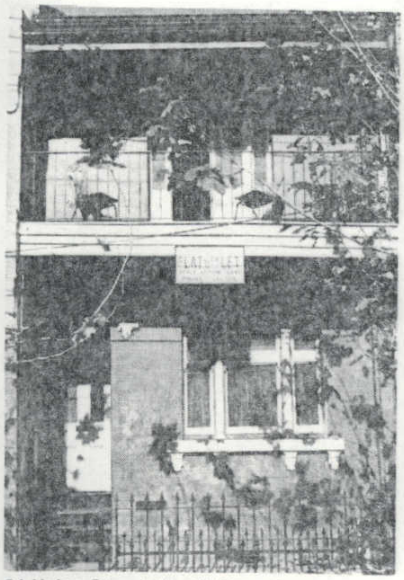
Gehring said they removed about 15 boxes of records, then he and Target drove the van to his premises at 31 Union Street in the inner Sydney suburb of Ultimo where he unloaded the records and locked them in a downstairs flat.

About two weeks later, he shifted them again to his cold store at 625 Harris Street, Ultimo.

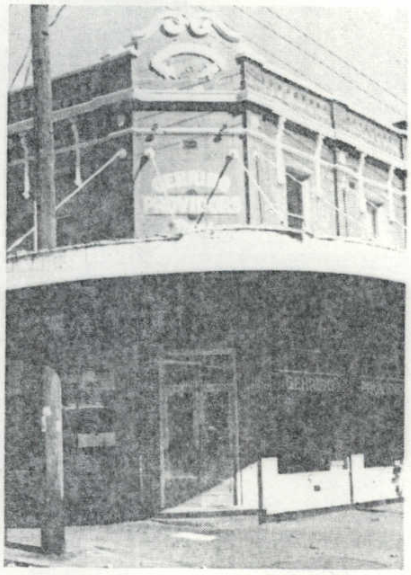
Gehring said he gave Shaw a duplicate key to the flat at 31 Union Street and while the files were there Shaw came on at least six occasions and let himself in. Gehring recalled seeing Shaw taking away papers.

He told Woods that on one occasion when he was not present, Houghton had come to the flat at 31 Union Street and had sought access through one of his employees. Because there was no key available, he said Houghton asked the employee to kick in the door at the back. He said the door led from the toilet into the flat which gave him access to where the records were stored.

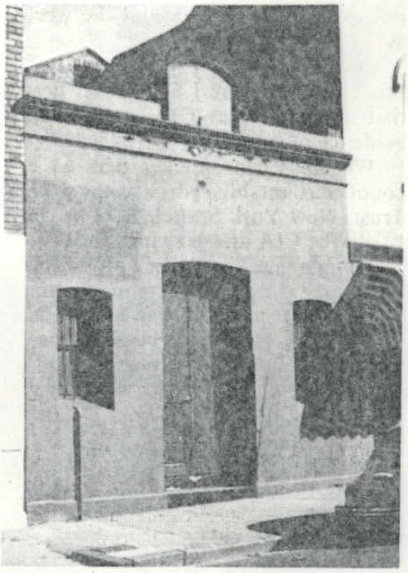
Gehring said he was the only one who knew that the records had been moved to a padlocked room upstairs at



31 Union Street: first hiding place



Gehring business: 35 Union Street



Ultimo cold store: the second one

the cold store. "Mike Hand rang me one day," he said, "and I told him I had moved the records and he stopped me as I was talking and said not to tell him because he didn't want to know."

Later (Gehring could not recall exactly when), Hand telephoned him and asked him to bring all the records to the Pitt Street office of his solicitor, Michael Moloney.

Woods told Gehring that he had interviewed Shaw and that Shaw had told him that he had no knowledge of the Nugan Hand records after they were delivered to the AMP centre. "I have read the Corporate Affairs cross-examination of Michael Hand," Woods said, "and he stated that he assisted in the removal of the records from the AMP centre to 31 Union Street. I have read your transcript of evidence before the Corporate Affairs Commission where you corroborated the story of Michael Hand. It would appear that prior to Hand, Shaw or yourself giving evidence to that commission that an agreement has been reached that false evidence be given to that commission. What do you say about that?"

Gehring denied having come to an agreement with Shaw. However, he said, Hand had come to the Union Street office after he had given evidence.

"He told me that rather than involve George Shaw, Bernie Houghton and Barry Target it would be better if I gave the same evidence as Hand to keep everyone else out of it. He told me that as long as I went along with the story everything would be alright and that I would be in the Corporate Affairs for a short time and that would be the end of it. I agreed to this but I didn't realise how serious the matter would become until you blokes came around inquiring about matters. I started to think then about whether there was any drug connection with the bank. I certainly don't know of any but I realised that the records would be important if there was and that I should straighten the matter out."

Gehring said he recalled one occasion in May when Hand (who had been living anonymously at the 31 Union Street flat because of threats) asked Gehring to drive him over to Shaw's home in suburban Coogee.

"Mike Hand spoke to George Shaw and tried to calm him down," he said, "because he was pretty nervous and upset and was complaining about being harassed by his clients.

"I remember Hand saying words to the effect: 'The Corporate Affairs will charge me with everything. You won't be charged with anything. I'm going to take the blame for the lot.'

"Then, Mike Hand and George Shaw went downstairs to a room. They were there for about 10 minutes. I don't know what they were talking about. They came back upstairs and we left immediately. George Shaw was very upset and he came out to our car; he was crying and hanging onto Michael.

"I gained the impression Shaw was seeking Hand's advice on what to do. I have never seen anyone so emotionally upset.

"I remember Hand saying words to the effect: 'You're a mess. You should see a doctor.' "

Gehring was asked to explain, in sequence, the events which led to the disappearance of Hand.

"Hand wanted to leave the country," he said. "He told me he was attempting to get an Australian passport in another name and he had a couple of chances but everything failed. This happened over a two-week period before I became involved in it. When he couldn't get his own passport, he asked me if I knew of someone who would never travel overseas. He wanted to approach some person and offer them money for them to have a passport issued in their name with his picture on it. I told him I didn't know of anyone who would do that. The situation was becoming impossible and I felt he had to get out of the country because of the threats he was getting and I decided to help him by getting a passport in the name of one of my employees who was about his age and had the same colored hair. I was speaking to one of my employees who had obtained an Australian passport legitimately . . .

"The employee told me it was just a matter of filling out the forms and producing a signed photograph and a copy of the birth certificate and just give it to a travel agent. I figured out in my own mind how to do it illegally and I gave the forms to Michael Hand who filled them out and later I gave everything to a travel agent."

The passport was issued in the name of Alan Glen Winter. An unsuspecting travel agent in Dixon Street (Sydney's Chinatown) obtained the passport after Gehring, who paid him Hand's cash for a round-the-world ticket, concocted a story about obtaining both the tickets and the passport for a friend.

Gehring said an American he knew only as "Charlie" came out from the United States to help Hand with his getaway. It was Charlie — according to Gehring — who helped Hand disguise himself with a false beard and moustache and glasses.

"I saw him (Charlie) above five times," Gehring said. "They acted very secretively. I was never told his right name. I was never told where he was

staying and he appeared as if he didn't wish to be seen in company with Michael Hand." Nevertheless, Charlie was with Hand when he left Australia for Vancouver via Fiji and Honolulu.

Gehring described Charlie as being "white, six foot one, about a hundred and eighty pounds, dark hair, medium build, probably about 35 years old."

Hand had told Gehring that he was flying to Canada because from there he could enter the United States without a visa by simply driving over the border.

Although Hand had gone, Gehring was still helping him. He said he and Hand had spoken about what he should do to "buy" Hand enough time for him to get into the United States.

"He left on the long weekend in June," he said, "and every day for about a week I would put fresh food in the fridge, wet down his socks and tooth brush, flush the toilet, run the shower for a while and stomp around and bang some doors for the benefit of the neighbor. I would bring the daily papers in and make the noise in there in the morning and the afternoon. Ultimately Michael Moloney (Hand's solicitor) rang me and said he wanted to contact Hand in relation to some court case. Hand had told me to tell no one about his disappearance and I told Moloney I hadn't seen him for a couple of days. I told him I would leave a note on his mirror in the bathroom. I did this. Moloney kept ringing each day and I put two or three notes on the mirror. Eventually I told Michael Moloney I'd been leaving the notes, that Hand hadn't been back and I hadn't seen him." I tried to ring Moloney on one occasion but I was told he wasn't there and I was put onto Quentin George (a solicitor who worked for Frank Nugan). I told him I'd been leaving notes for Michael Hand for over a week and I suggested that he report the matter to the police because something may have happened to Michael Hand. At that stage the press were ringing that office and Quentin George had apparently told them the story. The next thing, the Willesee program turned up. I rang Quentin George and asked him what to do and he said let them in. The rest is history."

In February 1981, Gehring took a trip home to see his family in Dayton, Ohio. On his way back to Sydney, Hand telephoned him in the Pan Am Clipper Club departure lounge at San Francisco airport. "He was looking for news about himself and the investigation over here," he said. "He asked me about his wife, Helen, and also if I had gotten into trouble over the false passport. He asked me if I had seen Bernie Houghton and I told him I had. I asked him how he was doing and he said he was doing a bit better and getting it together." □

Unsafe as a bank could possibly be

THE NUGAN Hand Bank must have been the most sloppily run institution calling itself a bank ever to have operated in this country.

However, the repeated allegations that it was a CIA front and engaged in the drug trade remain unsubstantiated and may well be untrue.

Bernie Houghton's statement, now made public for the first time, provides evidence on both counts.

To begin with, take Houghton's recruitment by Michael Hand. Houghton had been a construction businessman in Vietnam and had a business background in war surplus equipment, restaurants and clubs. He later worked as a real estate salesman and had opened the Bourbon and Beefsteak Bar.

He appears to have been an astute businessman, but without banking experience. When Hand asked him to go to Germany to "review a bank investment," Houghton pointed out that he neither spoke German nor knew the banking business. To be fair, it should be pointed out that neither Nugan nor Hand had any significant banking experience either.

Because Houghton would work only for Hand, the Saudi office was made part of Nugan Hand, Cayman Islands, part of the motley empire which was wholly owned by Hand. The books were kept neither in Saudi Arabia nor Cayman Islands but in Singapore.

When Nugan Hand went into receivership in Hong Kong nobody bothered to tell the Saudi branch, although the employees were liable to be thrown into debtor's prison under Saudi law until their debts were repaid (in the case of Nugan Hand, this might well have been a life sentence). The staff had to flee the country.

Houghton said that each bank in each country was a separate and independent operation. For this reason he was unable to give a list of all the countries in which it operated. In other words, Nugan and Hand set up a skein of banks around the world but communication between them was so negligible that the man running the Saudi operation did not even know that some of them existed.

Houghton was obviously appalled at the lack of security in the Sydney office. Many of the executives, and even some outsiders, had keys to the office. Houghton said that when Hand came to the office after Frank Nugan's death "he was not able to determine what files had been removed nor how much money nor who did it.

"From my observation of the offices, even prior to the death of Frank Nugan, they were totally without security, even though large sums of negotiable documents were apparently always in the office. It appalled me that people could freely come and go throughout that office at all times, and they did. The offices were just wide open to anyone." Houghton absolutely denied that the bank was operating on behalf of the CIA or as a drug-runner.

A sceptic would says that these are the sort of charges an executive of the

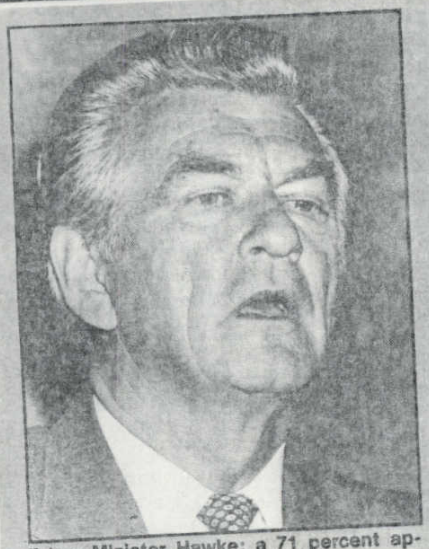
Inquiries still going on

IN MAY 1980, Mr Justice Woodward recommended an investigation into the affairs of major drug trafficker Murray Riley and his associates: Harry Wainwright, an American lawyer and associate of organised crime figures in the United States and Australia and the Nugan Hand group of companies. It was not until September that year that the Commonwealth-State Joint Task Force on Drug Trafficking was asked to start its investigations. In July 1982, as a result of allegations made in federal parliament by the Labor opposition, the Fraser Government referred the matter to a royal commission. Mr Justice Stewart began his inquiry on April 1 last year.

The 18-man Drugs Task Force led by NSW detective sergeants Jim Seedsman and Clive Small has so far produced four reports, the first of which was not released by the government.

The Corporate Affairs Commission assigned its own team to the Nugan Hand investigation on January 27, 1980. The CAC produced its seventh and final report on May 23 last year. Only the fifth, sixth and seventh CAC reports were tabled. Five CAC investigators are still working with the Stewart royal commission while others are also assisting the Nugan Hand liquidator, John O'Brien.

— Bruce Stannard



Prime Minister Hawke: a 71 percent approval rating

PUBLIC OPINION

ALP victory in the Senate is unlikely

IF A Federal election for the House of Representatives had been held in early May, the Hawke Government would have been easily returned. However, the Senate would have been controlled by the Australian Democrats and independents, the Morgan Gallup Poll finds.

For the House of Representatives, support for the ALP was 54 percent, while 39 percent supported the L-NP.

For the Senate, support for the ALP was 8 percent lower at 46 percent, while 38 percent support the L-NP, 8 percent the Australian Democrats and 8 percent other parties and Independents.

	ALP %	L-NP %	Aust Dem %	Others %
House of Reps Election				
1980 Fraser	45.1	46.3	6.6	2.0
1983 Hawke – March 5	49.5	43.6	5.0	1.9
Morgan Gallup Poll				
Feb 4/11	57	37	4	2
Feb 18/25	54	40	4	2
March 3/10	55	39	5	1
March 17/24	57	37	4	2
March 31/Apr 7	54	39	5	2
April 14/21	55	39	3	3
April 28/May 5	55	39	4	2
May 12/19	54	39	5	2

The last line of figures comes from asking 2070 electors throughout Australia (in the weekends of May 12, 19) which party would receive their first preference "if a Federal election were held today for the House of Representatives." Electors were also asked which party would receive their first preference "if a Federal election were held today for the Senate."

Of those surveyed, only 4 percent didn't state their preference for the House of Representatives and 6 percent for the Senate.

Electors were also asked whether they approved of the way Prime Minister Hawke was handling his job.

APPROVAL OF PRIME MINISTER

	Approve %	Disapprove %	Undecided %
Feb 4/11	73	15	12
Feb 18/25	70	18	12
March 3/10	74	16	10
March 17/24	74	16	10
March 31/April 7	75	15	10
April 14/21	75	16	9
April 28/May 5	72	18	10
May 12/19	71	17	12

Of ALP voters, 90 percent (down 2 percent) approved the way Hawke was handling his job. Only 3 percent (down 2 percent) disapproved and 7 percent were undecided. On the other hand, of L-NP voters, 48 percent (up 3 percent) approved, 35 percent (down 4 percent) disapproved and 17 percent were undecided.

APPROVAL OF OPPOSITION LEADER

	Approve %	Disapprove %	Undecided %
Feb 4/11	39	38	23
Feb 18/25	36	38	26
March 3/10	36	40	24
March 17/24	34	43	23
March 31/Apr 7	33	45	22
April 14/21	37	43	20
April 25/May 5	35	45	20
May 12/19	36	41	23

Of L-NP voters, 46 percent (up 3 percent) approved the way Peacock was handling his job as Leader of the Opposition, 32 percent (down 5 percent) disapproved and 22 percent were undecided. Of ALP voters, 28 percent (down 2 percent) approved Peacock, 50 percent (down 1 percent) disapproved and 22 percent were undecided.

Electors surveyed were also asked who they felt would make the better Prime Minister – Hawke or Peacock. Preference for Hawke was 74 percent.

Of ALP voters, 93 percent said Hawke would make the better Prime Minister, only 2 percent said Peacock, while 5 percent couldn't say or named someone else. Of L-NP voters, 32 percent (down 1 percent) said Peacock and 51 percent (up 3 percent) said Hawke and 17 percent couldn't say or named someone else.

The Morgan Gallup Poll, the only Australian member of Gallup Poll, is copyright. It must not be reproduced in whole or part without the express permission of *The Bulletin*.

bank would deny whether they were true or not. He could hardly confess to them. However, there are other pieces of negative evidence which support Houghton. One, for example, is the book *Sleight of Hand*, by John Owen, an Englishman who used to run the Bangkok branch in Thailand.

According to Owen, the Chiang Mai branch was set up by Neil Evans for the purpose of attracting drug money, but he was singularly unsuccessful at doing so. Owen also claimed that the closest Nugan Hand ever came to recruiting an ex-CIA man was when Brigadier Ed Black, former chief of station in Bangkok, was approached, unsuccessfully. □

— Trevor Sykes

THE PUBLIC SERVICE

The mystery of papers 'lost in the system'

By RICHARD FARMER

THE COMMONWEALTH ombudsman has uncovered an amazing story of disappearing documents from the Department of Science and Technology. The missing documents are all related to efforts by a former Australian government analyst, Dr Frank Peters, to have notice taken of what he believed was waste in scientific spending.

The ombudsman has found that some documents were destroyed – an action he described as "deplorable." Some folios were missing from other files and the department was unable to offer any explanation.

A key set of files that recently went missing related to reports written by Dr Peters to the then Minister for Science, Clyde Cameron, in 1975. They outlined a plan to rationalise a number of government laboratories in similar fashion to proposals recently put forward by a committee headed by Professor Ian Ross (B, May 15).

Last week, Cameron recalled that he had agreed with the Peters proposals but it was clear from the Ross report that no changes were made. Ross told of waste running into tens of millions of dollars and his recommendations are now the subject of a further report by an inter-departmental committee.

The disappearance of complete documents and pages from files has come to light because Peters approached the ombudsman to ask why a submission he prepared for the Ross committee was never received. Peters

DEPARTMENT OF THE PRIME MINISTER AND CABINET

83/0505

Note For File

Mr Justice Stewart

I rang Mr W. McCann (SMOS) and asked whether we were still in a position to insist that Stewart conclude his Royal Commission by 31 December 1984 given that he was in line to assume additional responsibilities as NCA Chairman.

Mr McCann said that this factor if anything strengthened the case for so insisting. In the discussions with Stewart, there had been no suggstion that his appointment to the NCA would necessitate an extension of the term of his Royal Commission. Mr McCann added that he felt Stewart would be anxious to relinquish his Royal Commission responsibilities to enable him to concentrate on his NCA duties.

Mr McCann also referred to the fact that NSW legislation would be required to enable Stewart to be NCA chairman while still retaining his judicial position. He said that the the NSW Premier had agreed to this course of action.

AK Berendson

(A.K. Berendson)
Acting Assistant Secretary
Law Enforcement Branch

30 May 1984

2

Mr G. Gleeson
Secretary
Premier's Department
State Office Block
SYDNEY NSW 2000

31 MAY 1984

Dear Mr Gleeson

I acknowledge receipt by the Prime Minister of the Premier's telex of 25 May concerning the Royal Commission of Inquiry into the Activities of the Nugan Hand Group.

Yours sincerely

J. V. TOWNSEND

J.V. Townsend
Senior Private Secretary

AG - HAND ENT

Crowley. 1

DEPARTMENT OF THE PRIME MINISTER AND CABINET

INWARDS Teleprinter Message

at on

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MAY 25 11 21 AM '84

PRIMIN AA61616
NSWPREM AA21269

25.5.84

THE HON R.J.L. HAWKE, A.C., M.P.,
PRIME MINISTER
CANBERRA.

DEAR MR HAWKE,

NEW SOUTH WALES CONCURS IN THE TIME IN WHICH THE ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN HAND GROUP IS REQUIRED TO REPORT BEING EXTENDED TO THE 31ST DECEMBER, 1984, AND IN THE PRESENT COST SHARING ARRANGEMENTS BEING CONTINUED ACCORDINGLY.

I AGREE THAT IT WOULD BE APPROPRIATE TO INDICATE IN RESPONDING TO THE HON MR JUSTICE STEWART'S REQUEST, THE UNLIKELIHOOD OF ANY FURTHER EXTENSION BEYOND DECEMBER, 1984, ALONG THE LINES SUGGESTED IN YOUR LETTER OF 5TH APRIL, 1984. THE CHIEF JUSTICE OF NEW SOUTH WALES WHO HAS OF COURSE BEEN CONSULTED IN RELATION TO EACH EXTENSION, WILL PLAN ACCORDINGLY IN RELATION TO THE HON MR JUSTICE STEWART'S RETURN TO JUDICIAL DUTY.

IT IS PROPOSED TO RECOMMEND TO THE EXECUTIVE COUNCIL AT ITS MEETING TO BE HELD ON WEDNESDAY, 13TH JUNE, 1984, THAT LETTERS PATENT BE ISSUED TO EXTEND THE ROYAL COMMISSION UNTIL 31ST DECEMBER, 1984.

SUBJECT TO THE COMMONWEALTH'S CONCURRENCE, NEW SOUTH WALES IS AGREEABLE TO THE HON MR JUSTICE STEWART PROCEEDING OVERSEAS FOR APPROXIMATELY FOUR WEEKS TO THE UNITED STATES OF AMERICA IN CONNECTION WITH INQUIRIES INTO THE NUGAN HAND GROUP ACCOMPANIED BY HIS WIFE, COUNSEL ASSISTING AND THE COMMISSION'S SECRETARY.

YOURS SINCERELY

NEVILLE WRAN
PREMIER.

ADVANCE COPY

ORIGINAL TO AG-LAW ENF

COPIED TO FAG-JUSTICE

PRIMIN AA61616
NSWPREM AA21269

Dr Preston

Mr Bergin

DEPARTMENT OF THE PRIME MINISTER AND CABINET

NOTE FOR FILE

Dr Gray,
Do you have any background info on this - S.H. is on rec leave till Mon. 22/3.

cc Mr McInnes
Mr Rose
Dr Preston

QUEEN v. SORBY

Mr Menzies from the Attorney-General's Department rang to say that, despite advice that we had put to him, the Attorney-General had sworn an affidavit objecting to the disclosure of the identity of anybody who gave evidence before the Stewart Royal Commission in the Sorby trial. A copy is attached. The Attorney relied on:

- the public interest in ensuring that Royal Commissions enquiries are not jeopardised
- "informer privilege".

Mr Menzies commented that it was doubtful that the claim could be upheld in its entirety, but may be upheld to the extent it applies to witnesses who have not been called or are not going to be called before the Supreme Court in the current trial.

(Stuart Hamilton)
First Assistant Secretary
Parliamentary and Government Division

21 March 1984

MR LUCK
An original
1/7/86.

Mr Preston

Sorby is facing heroin possession & importation charges in the Vic Supreme Court. The charges arose out of follow up work by SP Redlich following matters referred by the Stewart RC.

Sorby's defence counsel in committal proceedings sought to have evidence that of some witnesses in the Sorby case had earlier given to the RC produced as evidence → in this case. The RC objected on the above grounds.

John L
26/3

Dr Preston

W Berendsen

DEPARTMENT OF THE PRIME MINISTER AND CABINET

NOTE FOR FILE

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Mr Rose
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John L
26/3

Department of the Prime Minister and Cabinet
REGI[redacted] SECTION

New File Request

PX 208-8/80

O.I.C. REGISTRY

Please Create a

- [ ] NEW FILE
- [x] NEW PART
- [ ] GENERAL REPS FILE

Or

- [ ] RECLASSIFY
- [x] AMEND TITLE
- [ ] CANCEL

The attached File.

Security Classification: Confidential

Priority: ASAP

Suggested Title: Royal Commission of Inquiry into the Activities of the Nugan Hand Group

Suggested Keyword/s:

Cross Reference with	Other Instructions
	Pls also create an
	attachments part

Mark To: A. K. Berendsen Room No. Ext. 3426